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LOK SABHA

The following Report of the Joint Committee on the Bill to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interests and for that purpose to establish a National Shipping Board and a Shipping Development Fund, to provide for the registration of Indian ships and generally to amend and consolidate the law relating to merchant shipping was presented to Lok Sabha on the 21st August, 1958:—

Composition of the Joint Committee

Lok Sabha

1. Shri Upendranath Barman—*Chairman*
2. Shrimati Ila Palchoudhuri
3. Shri Liladhar Kotoki
4. Shri S. Osman Ali Khan
5. Shri Harish Chandra Mathur
6. Shri Anirudha Sinha
7. Shri Ram Dhani Das
8. Shri Ghanshyamlal Oza
9. Shri Raghunath Singh
10. Shri Nardeo Snatak
11. Shri Tekur Subrahmanyam

12. Shri K. P. Kuttikrishnan Nair
13. Shri K. Periaswami Gounder
14. Shri Dinesh Pratap Singh
15. Shri Mool Chand Jain
- *16. Dr. Y. S. Parmar
17. Shri N. M. Wadiwa
18. Shri Radha Raman
19. Bakshi Abdul Rashid
20. Shri Shivram Rango Rane
21. Shri Raj Bahadur
22. Shri Hirendra Nath Mukerjee
23. Shri K. T. K. Tangamani
24. Shri Rajendra Singh
25. Shri Nath Pai
26. Shri Ram Sewak Yadav
27. Shri S. A. Matin
28. Shri Aurobindo Ghosal
29. Shri Badakumar Pratap Ganga Deb Bamra
- †30. Shri S. K. Patil

Rajya Sabha

31. Shri Janardhan Rao Desai
32. Shri Akbar Ali Khan
33. Shri T. V. Kamalaswamy
34. Shrimati Savitry Devi Nigam
35. Shri J. S. Bisht
36. Shri M. D. Tumpalliwar

*Ceased to be member of the Committee with effect from the 31st July, 1958 on the dismissal by the Judicial Commissioner of appeal from the order of the Election Tribunal dated the 28th April, 1958 declaring his election to Lok Sabha void.

†Appointed on the 15th April, 1958 vice Shri Lal Bahadur Shastri resigned.

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37. Shri Jethalal Harikrishna Joshi
 38. Dr. Raghubir Singh
 39. Giani Zail Singh
 40. Shri Vijay Singh
 41. Shri R. S. Doogar
 42. Shri Abdur Rezzak Khan
 43. Shri V. K. Dhage
 44. Shri R. P. Sinha
 45. Dr. P. J. Thomas.

DRAFTSMEN

- Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*
Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law.*

SECRETARIAT

- Shri N. N. Mallya—*Deputy Secretary.*
Shri A. L. Rai—*Under Secretary.*

REPORT OF THE JOINT COMMITTEE

1. the Chairman of the Joint Committee to which the Bill* to amend and consolidate the law relating to Merchant Shipping was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 14th February, 1958. The motion for reference of the Bill to a Joint Committee of the Houses was moved in the Lok Sabha by Shri Lal Bahadur Shastri on the 25th February, 1958 and was discussed and adopted on the same day.

3. The Rajya Sabha discussed and concurred in the said motion on the 27th February, 1958.

4. The message from Rajya Sabha was read out in the Lok Sabha on the 3rd March, 1958.

5. The Committee held 12 sittings in all.

6. The first sitting of the Committee was held on the 22nd April, 1958 to draw up a programme of work. The Committee at this sitting also decided to hear evidence of associations and individuals desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to which of the associations or individuals might be called to tender oral evidence before the Committee.

7. At their first and the second sittings held on the 22nd April, and the 7th July, 1958, respectively, the Committee decided to visit marine establishments at Bombay, Calcutta and Madras for an on-the-spot study, subject to the necessary permission being given by the Speaker.

8. The Committee, however, visited the marine establishments at Bombay and Calcutta only since they felt that the establishments which existed in Madras were of the same type which they would visit in Bombay and Calcutta. The Committee, were accordingly in Bombay from the 13th to the 15th July, 1958 and in Calcutta from the 17th to the 19th July, 1958.

*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 14th February, 1958.

9. During their study tour at Bombay and Calcutta, the Committee particularly visited the Mercantile Marine Department Offices, Seamen's Employment Offices, training colleges and ships intended for imparting training to engineers, navigators and seamen, shipping offices, seamen's welfare centres and seamen's hostels. The Committee studied the working of these establishments and also questioned in detail the authorities concerned and seamen whom they met for eliciting first-hand information on the provisions of the Bill.

10. At their second, third, fourth, fifth and sixth sittings, held on 7th, 8th, 9th, 10th and 21st July, 1958 respectively, the Committee heard the evidence tendered by 8 associations and 2 individuals.

11. The Committee have decided to lay the evidence tendered before them on the Table of the House *in extenso*.

12. The Committee considered the Bill clause by clause at their sittings held from the 22nd to 26th July, 1958.

13. 63 Memoranda/representations on the Bill were received by the Committee from different associations/individuals.

14. The Report of the Committee was to be presented by the 11th August, 1958. The Committee were granted extension of time by Lok Sabha on the 11th August, 1958 upto the 21st August, 1958.

15. The Committee considered and adopted the Report on the 18th August, 1958.

16. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

17. *Long Title*.—The Committee consider that the Long Title of the Bill should be enlarged to specify the main purposes of this legislation which in course of their deliberations have been widened to cover developmental aspects of Indian Shipping.

The Long Title has, therefore, been recast accordingly.

18. *Clause 3*.—

(1) *Items* (2), (13), (18), (42), (51) and (56) [*Original Items* (2), (12), (17), (40), (49) and (54)].

The amendment made in item (13) enlarges the definition of a foreign-going ship so as to include ships which are employed in trading between ports or places outside India.

The other amendinents are either clarificatory or consequential.

(2) *Item (16)*—[*Original Item (15)*].

The Committee feel that the definition of “home-trade ship” should also include a ship trading between India and Burma and Maldivé Islands.

The Item has been amended accordingly.

(3) *Items (7) and (31)*—(*New Items*).—

In view of incorporation of new clauses in the Bill making special provisions for the protection of seamen in respect of litigation (New clauses 178—183), it was felt necessary to define “Court” and “proceeding” in relation to these new clauses. The same have now been defined in the new items.

19. *Clauses 4, 5 and 6 (New Clauses)*.—The Committee consider that provision should be made for the constitution of a National Shipping Board to advise the Central Government on matters relating to Indian Shipping including the development thereof and on such other matters arising out of the Bill when enacted which the Central Government may refer to it for advice.

The new clauses have been inserted accordingly.

20. *Clause 13 (Original Clause 10)*.—The changes made in the clause are clarificatory in nature.

21. *Clauses 14—19 (New Clauses)*.—The Minister of Transport brought to the notice of the Committee that a non-lapsable Shipping Development Fund as a proforma account was intended to be created. The Committee feel that this opportunity should be taken to give this Fund a statutory basis which might be entrusted for administration to a Corporate Body to be called the Shipping Development Fund Committee. The Fund will be utilised for giving loans and financial assistance in any other form to Shipping Companies for the acquisition and maintenance of ships.

The new clauses have been inserted accordingly.

22. *Clause 21 (Original Clause 12)*.—This being the most controversial clause in the Bill as it related to the question of foreign participation in Indian Shipping, the Committee have given careful thought to it and after hearing the varying viewpoints of

Shipowners and others who appeared before the Committee and also that of the Transport Minister, the Committee feel that:—

- (i) where a ship is owned by an individual the entire ownership shall vest in Indian hands, and
- (ii) where a ship is owned by a company, it should satisfy the following requirements:—
 - (a) the principal place of business of the company should be in India;
 - (b) at least seventy-five per cent. of the share capital of the company is held by citizens of India;
 - (c) not less than three-fourths of the total number of Directors of the company are citizens of India;
 - (d) the Chairman of the Board of Directors and the Managing Director, if any, are citizens of India;
 - (e) the Managing Agents, if any, of the company are citizens of India or in any case where a company is the Managing Agent, the company satisfies the requirements specified in sub-paras (a), (b), (c) and (d).

The clause has been amended accordingly.

23. *Clause 22 (Original Clause 13).*—The Committee feel that the provisions in the original clause 447(3) (f) that a ship already registered under a previous enactment which is being repealed by this Bill should be deemed to have been registered under the present Bill, should be transferred to this Clause.

A proviso has accordingly been added to sub-clause (2).

24. *Clause 25 (Original Clause 16).*—For the sake of administrative convenience and in view of the introduction of the decimal system in our country it was felt that “property in a ship” should be divided into ten shares instead of sixty-four shares as provided originally in the Bill.

The clause has been amended accordingly.

25. *Clause 45 (Original Clause 36).*—*Sub-clause (2).*—Consequential amendments have been made in this sub-clause.

26. *Clause 89 (Original Clause 80).*—The Committee feel that the duty imposed on a shipping master under clause 132 to enquire into and decide disputes arising out of the agreement between the master, owner or agent and any of the crew should be included in this clause.

New Item (d) has been inserted accordingly.

27. *Clauses 99 and 100 (Original Clauses 90 and 91).*—The amendments made in the clause are of a drafting nature.

28. *Clause 101 (Original Clause 92).*—*Sub-clause (3).*—The Committee feel that the decision of the Indian Consular Officer should be binding on the parties until the ship returns to a port in India at which the seaman concerned in the dispute is to be discharged.

The sub-clause has been amended accordingly.

The other amendment is clarificatory in nature.

29. *Clause 109 (Original Clause 100).*—The amendment made in item (c) is of a drafting nature.

30. *Clause 114 (Original Clause 105).*—*Sub-clause (3).*—The proviso to this sub-clause has been recast to make the intention clear.

31. *Clause 128 (Original Clause 119).*—The amendment made in the clause is of a drafting nature.

32. *Clause 129 (Original Clause 120).*—In order to help seamen, the Committee are of the view that wages should be paid to them within four days after discharge instead of five days.

The clause has been amended accordingly.

33. *Clause 132 (Original Clause 123).*—*Sub-clause (1).*—The Committee are of the view that minor disputes between the master, owner or agent of a ship and any of the crew where the amount of the dispute is less than three hundred rupees should be submitted to the Shipping Master for decision at the instance of either of the parties, and in other cases consent of both the parties should be necessary.

Sub-clause (1) has been amended accordingly.

34. *Clause 134 (Original Clause 125).*—The amendment made in the clause is of a drafting nature.

35. *Clause 141 (Original Clause 132).*—To bring it in line with the actual practice in this respect followed by the Shipping Industry in India, the Committee are of the view that the compensation for the loss of effects in the case of a seaman employed on a foreign-going ship should be equivalent to three months' wages.

Item (ii) of sub-clause 1 (a) has been amended accordingly.

36. *Original Clause 134.*—The Committee feel that it would entail undue hardship and will also involve double penalty, if the

seaman were to bear the cost of proceedings where he is convicted of an offence.

The clause has therefore been omitted.

37. *Clause 168 (Original Clause 160).—Sub-clause (5).—*The amendment made in the sub-clause follows the language used in the analogous provisions of section 250 of the Code of Criminal Procedure, 1898.

38. *Clause 173 (Original Clause 165).—*The Committee feel that the number of persons on board a ship which would make the appointment of a Medical Officer compulsory should be left to be prescribed by the Rules framed by the Central Government instead of being laid down in the Bill.

The clause has been amended accordingly.

39. *Clause 174 (Original Clause 166).—Sub-clause (4).—*The Committee are of the view that expenses incurred by an owner on the burial or crimation of a seaman etc. should not be deducted from the wages due to him.

The sub-clause has been amended accordingly.

40. *Clauses 178—183 (New Clauses).—*The new clauses regarding special provisions for the protection of seamen in respect of litigation are based on the provisions of the Merchant Seamen (Litigation) Act, 1946 (Act No. XXI of 1946) which is being repealed.

41. *Clause 184 (Original Clause 170).—*The amendment made in the clause is clarificatory in nature.

42. *Clause 196 (Original Clause 182).—*The Committee are of the view that the entry of offences to be made in the official logs should, in addition to the mate, be also signed by one of the crew.

They further feel that not only the offender should be furnished with a copy of the entry but the entry should also be read over to him.

The clause has been amended accordingly.

43. *Clause 202 (Original Clause 188).—New sub-clause (3).—*The Committee feel that proceeds of all fines received from seamen should be utilised for their welfare in such a manner as the Central Government may direct.

The new sub-clause has therefore been inserted.

44. *Clause 213 (Original Clause 199).—Sub-clause (2).—*Certain consequential amendments have been made in this sub-clause.

45. *Clause 218 (Original clause 204).*—The amendment made in the clause is clarificatory in nature.

46. *Clause 233 (Original clause 219).*—*Original item (d) of sub-clause (1).*—The Committee feel that provisions contained in original item (d) of sub-clause (1) are covered by the original item (e) of the sub-clause.

The item has therefore, been omitted.

47. *Clause 259 (Original clause 245).*—The Committee feel that the crew of the ship ought to be counted along with the passengers for the purposes of providing Medical Officer and Attendants on unberthed passenger ships.

The Clause has been amended accordingly.

48. *Clause 307 (Original clause 293).*—*Item (c) of sub-clause (2).*—This item has been amended to bring it in line with the provisions of clause 302 (Original clause 288) relating to Exemption Certificate.

49. *Clause 319 (Original clause 305).*—*Sub-clause (1).*—The amendment made in the clause is of a drafting nature.

50. *Clause 321 (Original clause 307).*—*Original sub-clause (2).*—The sub-clause has been omitted as being unnecessary in view of sub-clause (3) of clause 316.

51. *Clause 408 (Original clause 394).*—The Committee feel that from the administrative point of view it is not necessary to provide for an opportunity of making a representation in the case of a refusal of a licence.

The clause has been amended accordingly.

52. *Clause 417 (Original clause 403).*—The amendment made in Item (b) of sub-clause (4) is clarificatory in nature.

53. *Clause 420 (Original clause 406).*—*Sub-clause (1).*—The words "of the passengers" have been omitted as being unnecessarily restrictive.

54. *Clause 435 (Original clause 421).*—*Item (j) of sub-clause (2).*—The amendment made in the item is of a drafting nature.

55. *Clause 436 (Original clause 422).*—A new sub-clause has been added to provide punishment for offences for which no specific penalty is provided.

56. *Clause 456 (Original clause 442).*—The Committee feel that it would be sufficient if an exemption is granted by an order instead of by a notification. The exemption clause has been widened to empower the Central Government to grant exemption in respect of the personnel of a ship in suitable cases.

Sub-clause (1) has, therefore, been amended accordingly.

57. *Clause 458 (Original clause 444).*—The Committee consider that a more serious punishment should be imposed for breach of rules or regulations framed under clause 331 which pertains to carriage of dangerous goods in ships.

The clause has been amended accordingly.

58. *Clause 459 (Original clause 445).*—*Sub-clause (1).*—The amendment widens the scope of the clause to enable the Central Government to appoint an advisory committee for any purpose connected with the Bill.

59. *Clause 461 (Original clause 447).*—*Items (f) and (g) of sub-clause (3).*—The amendments made in the items are clarificatory or consequential.

60. *The Schedule.*—The provisions contained in the Merchant Seamen (Litigation) Act, 1946 have been incorporated in clauses 178 to 183. The Committee, therefore, feel that it is no longer necessary to keep this Act on the Statute Book.

The Lascars Act, 1823 of U. K. in so far as it was applicable to India is also being repealed as it would become redundant on the enforcement of this Bill.

The Schedule has, therefore, been amended accordingly.

61. In respect of the amendments making provision for the formation of the National Shipping Board and the Shipping Development Fund, the recommendation of the President under Article 117(3) of the Constitution has been obtained.

62. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 21st August, 1958.

UPENDRANATH BARMAN,
Chairman,
Joint Committee.

MINUTES OF DISSENT

I

The Joint Select Committee has, in general, improved upon the Bill so considerably, in regard particularly to the definition of "Indian Ship" that our note of dissent is more by way of clarification and of a desire that, especially in the matter of the Seamen's rights and amenities the report of the Committee could conceivably have gone somewhat further.

We are of the opinion that the definition of "home-trade ship" should be altered, since we learn that vessels of as much as 9,000 tons G.R.T. are already sailing on our coasts, and the quality of seamanship required in service on such ships is hardly different from that in ocean-going vessels. Perhaps in time this somewhat artificial classification between trans-continental and home-trade ships will be unnecessary. Meanwhile, steps should be taken to see that 'home-trade' personnel are enabled to heighten their qualifications as well as their status, and till there is one uniform standard of attainments required of personnel who work for days on end on the high seas, the present 'home-trade' staff should suffer neither diminution of status nor the fear of unemployment. Ways and means for this purpose require to be worked out and incorporated in the Bill.

The composition of the National Shipping Board is of more than ordinary importance, and we wish to emphasise that the representation of seamen as well as of the general public interest should be as unexceptionable as it can be.

Part V, dealing with seamen and apprentices, is a very important and welcome feature of the Bill. As seamen generally are not yet organised into unions that are strong enough to negotiate with the employers on anything like equal terms, they need statutory protection of their rights to a greater extent than many other categories of workers. There are certain matters which we shall press before Parliament. Provisions regarding hours of work, a minimum wage, eligibility to gratuity, clear apportionment of duties on board, recognition of Unions and crew committees on representative basis and similar items demand greater attention and more specific action than the Committee has been able to offer. It is in regard to these and allied matters that we propose to canvass the sympathy of Parliament.

We wish that Part XIV, which deals with penalties and procedure, is somewhat recast, so that the instances of discriminatory treatment as far as seamen are concerned can be removed. The provisions of this Part appear to be comparatively lenient as far as the laches of shipowners and masters are concerned. We wish to draw Parliament's attention to this anomaly and seek to rectify it.

The following are some instances of a lack of balance between penalties for masters and for men:

Serial Nos. 2, 9, 12, 17, 22, 23, 24, 26, 27, 31, 37, 42 (ample provision to coerce the refractory seamen but not the master), 47, 48, 49, 50, 51, 53, 57, 59 (Seamen and apprentices treated much more sternly), 90, 92, 111.

K. T. K. TANGAMANI.

H. N. MUKERJEE.

A. R. KHAN.

AUROBINDO GHOSAL.

NEW DELHI;
The 18th August, 1958.

II

The Select Committee have decided in connection with Clause 12 relating to the definition of Indian Ship that the foreign investment will be limited to the extent of 25 per cent. and investment of Indian Nationals will be 75 per cent. There is, however, the view that in view of our economic development and the progress we desire in the Industry of Shipping and further in view of our difficulties regarding the availability of capital and paucity of foreign exchange, it is in the national interest that foreign investment should be allowed to the extent of 40 per cent. and Indian Nationals investment should be 60 per cent. We would have suggested 51:49 per cent formula as it has been accepted by the Government in several other industries, but in view of the special conditions of the shipping industry we consider a safer formula of 40 and 60 per cent so that the national interest may be effectively safeguarded as well as the foreign investment may be given suitable encouragement.

In order to understand our point of view it is necessary to bear in mind the following three aspects of this question :—

- (i) Past history;
- (ii) Resolution of 1947;
- (iii) Present position of our capital and foreign exchange.

It is acknowledged on all hands that Indian shipping was in a prosperous condition before the advent of the British in our country. The Port of Calicut was famous for ship building. During the last 150 years, the Britisher not only discouraged Indian shipping, but through different measures, legislative and otherwise, it was

practically killed. It stands to the credit of Walchand Hirachand and Narotam Morarji that after the 1st World War in 1919, the Scindia Company was floated. But this adventure was opposed at every stage by the British vested interests. In response to a public demand a Committee was formed in 1923 by the Government of India to enquire into and report, but its recommendations were not at all implemented. Again, in 1926, the matter was taken up in the Central Assembly by Shri S. N. Haji, but this attempt was also foiled through different means. The Government of India realized at the end of the Second World War that it was a great mistake to discourage Indian shipping as the huge losses during that war had proved and they came out with a statement that the Indian shipping should be developed. A Committee under the Chairmanship of Shri C. P. Ramaswamy was appointed, which gave a report on the basis of which the 1947 Policy Resolution was formulated. Let it be clearly understood that the suffering of the shipping industry at the hands of the British shipping were the foundations of the above report and the policy resolution. It has also to be made clear that notwithstanding this resolution foreign capital investors did not come forward to take part in the Industry. It is also to be carefully noted that the target fixed by the said Committee was two million tons by the end of 1956 which was not realised as the main difficulty was about the capital and the foreign exchange. The country suffered a loss of hundreds of crores as we had to carry our oversea trade in foreign vessels. In view of this history after the independence of the country, the whole question has to be studied in a different angle, because a sovereign country can always take measures not only to safeguard its security, but also to develop its industry, which was not possible under foreign domination. In our opinion there is no basis for the apprehension that the foreign capital will prejudicially affect the progress of shipping industry in the changed conditions—this lurking apprehension is the hang-over of the British rule.

The above statement answers the objection of persons who do not want more than 25 per cent of the foreign equity capital as they are obsessed by previous hardships. In our opinion, let this matter be considered in view of the hard realities that face us today and not through sentiments or the sad events of the period of the foreign domination. In the shipping industry, the position at the time of the First Five Year Plan and the present position amply proves that we are not able to fulfil the target of 9 lakhs which was the target fixed.

And today we stand in urgent need of capital as well as foreign exchange for planning. If foreign investment is encouraged fully, it would considerably save the foreign exchange which we spend

every year to the tune of 150 crores in foreign shipping and it is necessary to meet the requirements of the fast developing trade—coastal and overseas. We are definitely of opinion that we have to take the equity capital, as the loans in the present context is difficult to obtain and, even if we get loan, they will be required for the core of the Plan. Hence in the interest of our all-round development, particularly shipping industry, we consider the formula of 60% of National capital and 40% foreign capital most suitable for the occasion. Referring to certain provisions of the Company Law which require decision in certain matters by a majority of 75 per cent of votes, it is suggested that difficulties will be created. We have considered those provisions and the other provisions that give Government certain powers under the Company Law. We are of opinion that foreigners who will come to invest money will come with the full consciousness of our laws and they will abide by the provision and do all in their power to make the industry as successful and profitable as possible. Even now, there are employees of foreign nationality in our shipping industry and they have also represented us in the shipping conferences and the evidence of experienced persons shows that they have discharged their trust creditably. We feel no reason to apprehend that with all the safeguards in the Merchant Shipping Bill and other Laws and the sovereign power and authority of our country, the persons holding forty per cent capital will not fall in line with the other shareholders to help the smooth working and progress of industry in which they are equally interested.

In view of the importance of this issue and its far-reaching consequences on the economy of our country and particularly on the development of Indian shipping industry, we are of the opinion that the proposal of the Government in the original Bill to permit cent per cent foreign capital as well as the latest proposal of the Government to allow only 25% are not in the best interests of our shipping industry, but the formula of 60% Indian capital and 40% foreign capital is best suited to this industry in the present circumstances.

NEW DELHI;

AKBAR ALI KHAN

The 18th August, 1958.

III

Indo-Foreign Ratio of Capital

The Select Committee have decided about Clause 12 relating to the definition of Indian Ship—that the foreign investment will be limited to the extent of 25 per cent and investment of Indian nationals will be 75 per cent. There is, however, the view that, in the light of our economic development and the progress we desire in

the Shipping Industry and further in view of the difficulties regarding the availability of capital and paucity of foreign exchange, it is in the national interest that foreign investment should be allowed on the basis of 60 per cent Indian Nationals and 40 per cent foreign investors. We would have suggested 51:49 per cent formula as it has been accepted by the Government in several other industries, but if a more conservative formula is desired, 60:40 should meet the requirements.

Past and Present

In order to understand our point of view it is necessary to bear in mind the following three aspects of this question:

- (i) Past history;
- (ii) Resolution of 1947;
- (iii) Present position of our capital and foreign exchange.

It is acknowledged on all hands that Indian shipping was in a prosperous condition before the advent of the British in the country. Many ports were famous for ship building. During 150 years, the Britisher not only discouraged Indian shipping, but through different measures, legislative and otherwise, it was practically killed. To the credit of Narottam Morarji and Walchand Hirachand after the first World War in 1919, the Scindia Company was floated and was opposed at every stage by the British vested interests. In 1923 a Committee was formed, but its recommendations were not implemented. Again in 1926, the matter was taken up in the Central Assembly by Shri S. N. Haji, but this attempt was also foiled through different means. Nevertheless, the Britishers felt after the end of the Second World War, that it was a great mistake to discourage Indian shipping and they came out with a statement and a planning report that the Indian shipping should be developed and a Committee under the Chairmanship of Shri C. P. Ramaswamy was appointed, which gave a report on the basis of which the 1947 Policy Resolution was formulated. Let it be clearly understood that the suffering of the shipping industry at the hands of the British shipping were the foundations of the above Report and Policy Resolution. It has also to be made clear that notwithstanding the Resolution, foreign capital investors did not come forward to take part in the Industry. It is also to be carefully noted that the target fixed by the said Committee was 2 million tons by the end of 1954, but it was not realised. The main difficulty arose about the capital and foreign exchange available and the country suffered a loss of hundreds of crores. In view of this history, after the independence of the country, the whole question has to be studied

from a different angle, because a sovereign country can always take measures not only to safeguard its security, but also to develop its industry, which was not possible under foreign domination. In our opinion, there is no basis for the apprehension that the foreign capital will prejudicially affect the progress of the shipping industry in the changed conditions.

Change with the times

The above statement answers the objection of persons who do not want more than 25 per cent of the foreign equity capital always referring to the previous history and to the 1947 Resolution. Our view is, let this matter be considered in view of the hard realities that face us today and not through sentiments or the sad history of the period of foreign domination.

First-Plan Target not fulfilled

During the first two years after the war the existing companies added a lot of tonnage to their fleet. A few new companies were started, but the process soon ceased and for some years before the promulgation of the First Five Year Plan, hardly any progress was made and but even so far the first year hardly any response was made and when progress started in the 3rd year of the plan, it was found that the amount allocated for shipping about 20 crores was not taken up and had to spill over into the Second Plan, though the Government were prepared to give loans upto 85 to 90 per cent of the cost of a ship repayable during 15 to 20 years. This delay in using the loan money resulted in the First Plan being implemented in 1958, two years after the end of the plan in 1956.

Second Plan Target unlikely to be met

For the Second Five Year Plan, various targets for shipping, varying from 15 lakhs to 10 lakhs, were put up by different parties, but owing to financial stringency, the Planning Commission laid down the target of only 900,000 tons. This time, however, owing to the greater awareness about shipping and its possibilities, the total amount of 45 crores available for the Second Five Year Plan was picked up almost within a year of its announcement, but owing to the prices of tonnage having risen in the meantime and difficulties having arisen about foreign exchange, it was feared that by 1961 the target of 900,000 G.R.T. will be short by 200,000 G.R.T. At this stage, in September 1957, the Minister for Shipping courageously announced in the Lok Sabha that despite the Resolution of 1947, he was prepared to consider the common industrial formula of 51:49 for participation of foreign capital in Indian shipping too. The shipping interest which had not been able to fulfil the earlier target

started a campaign against foreign capital which was intensified when the bill was introduced in February, 1958. To show that there was no need for foreign capital, the earlier fear that there will be a shortage of 200,000 tons was replaced by the optimistic guess that after all shipping will be able to meet the target, if the Government rendered adequate assistance. Later, as the tempo regarding participation of foreign capital grew, the shipping interests alleged that they could meet the target with a very little Government assistance and in the final phase when the Select Committee were appointed, it was argued that taking advantage of the self-financing and deferred payment arrangements, Indian shipping would be able to reach the target more or less on its own without any Government help being necessary. This move was helped by the fact that owing to economic recession the prices of tonnage had dwindled and a good opportunity presented itself for adding to Indian tonnage, but besides paucity of internal resources, the other snag was foreign exchange. Even so attempts were made to show that scrapping a few crores from here and some crores from there, the target could be met and it was boldly alleged that shipping interests were in a position to reach the target by 1961 but the wishful thinking did not end there.

Two Million Tons Target Need Change of Policy

Because, when an enquiry was made as to how they will meet by even as late as 1966, the target of 2,000,000 G.R.T. which was fixed in 1947 for implementation in 1954, various impracticable suggestions were put forward largely based on wishful thinking.

Fanciful Suggestions Exposed

Some fanciful suggestions have been made to enable the ship-owners to meet the targets both interim and final, the one for 900,000 G.R.T. and the other 2 million tons to be reached by 1966. They have been made not so much with a view to develop Indian shipping as particularly to avoid the use of foreign capital, even though in a minority degree the whole edifice of opposition to participation of foreign capital as suggested by us, is based upon a desire to maintain the monopoly which a few companies have created for themselves in the overseas trades of India.

(1) Firstly, it is stated that the shipping companies should be allowed to use the foreign exchange earned by them after 31st March 1956 to add to their tonnage.

Unfortunately, however, as the foreign exchange thus earned has already been accounted for in meeting the other more important

targets of the Planning Commission, particularly those falling within the Core of the Plan, it is not easy to see how this amount could be realised for adding to the shipping tonnage. Moreover, as regards the Third Five Year Plan, the foreign exchange we need is going to be so large that it is inconceivable, realistically speaking, to see how foreign exchange earned by shipping in the Third Five Year Plan would be released for the purchase of ships.

Unfortunately, the recent history of our foreign exchange position is one of continuous decline. What was bad enough when we were deliberating over the Bill has during the short interval since deteriorated even to the extent that the Government of India cannot envisage the country's foreign exchange bearing the burden even of deferred payment. The situation seems to have come to such a pass that the choice no longer lies between deferred payment for ship purchases or foreign capital participation for shipping development, because according to the latest information the choice in the future lies between developing shipping with foreign participation or going without both altogether.

In a message from New Delhi, based upon a demi-official note, published in the *Free Press Journal* of 31st July, 1958, it is stated:

"In view of the continuing foreign exchange shortage, the Government of India is now understood to be approving industrial schemes involving the import of capital goods of substantial value, only if there was foreign collaboration resulting in an inflow into India of foreign capital on a long-term basis or other arrangements were made by which the country would not have to incur foreign exchange expenditure over a period of years.

For sometime, the Government of India had been allowing the import of capital goods on a deferred payment basis. But now, in view of the worsening foreign exchange position, only deferred payment terms involving no or negligible foreign exchange expenditure are approved."

Such being the case, it follows that a ship, even a second-hand ship, the whole of the value of which consists of foreign exchange can no longer be purchased on instalment basis spread over 5-7 years, so that the scheme of paying as you earn can no longer be wholly relied upon. We would strongly urge therefore, that the percentage of foreign participation should be allowed at least on the basis of 60:40. One might even say that in the light of this new situation the figure might even be raised to the one operating in the case of industries in general, i.e. 51:49, for Indo-Foreign participation in capital.

(2) Secondly, it is stated that the Government of India have not pressed upon the World Bank the great need for financing Indian Shipping just as has been done for ports, so that the necessary exchange may be forthcoming from that quarter. It is no doubt true that at one time the World Bank Chairman seemed agreeable to consider shipping as deserving of support of the World Bank. But as shipping does not form the Core of the Plan, it is neither likely that the Government of India will apply for such loan nor that the World Bank will agree to give the amount. So far as shipping is concerned, there is no reasonable prospect of any world assistance such as World Bank Loan.

(3) It is seriously suggested that shipping being the second line of defence, part of funds meant for defence proper should be diverted to enable shipping companies to reach the target. Such a suggestion would only emanate from people who would say that shipping was more important than steel interest which is rightly regarded as the "Mother" of all industries.

(4) An equally ridiculous suggestion is that a part, say half, of the money likely to be paid as freight for the import of food-stuffs from America and elsewhere should be diverted to shipping requirements in order that part of the foreign exchange can thus be saved. It is, however, forgotten that if such an amount was allocated to shipping, so much less food could be brought in. Just as the last suggestion meant starving defence for shipping, this one would result in starving Indian citizens for growth of Indian Shipping.

(5) With such a mentality, it is not surprising that it was seriously suggested by the Shipowners that foreign loan be negotiated for Indian Shipping as was done in the case of steel, railways, ports, etc. If the Government would procure such a loan for say Rs. 50 crores and handed over to the shipowners, they will provide out of that amount Rs. 15/20 crores for buying four modern and fast passenger vessels to ply between India and United Kingdom-Continent, enabling the established concerns to thrive at the cost of the country and to earn prestige for themselves. From the balance of 30 crores, 30 modern fast cargo vessels can be purchased to develop India's foreign trade. These ships will of course earn more foreign exchange than the passenger vessels, so for the latter the Government must provide a special allocation of foreign exchange. It is not even stated as to what collateral guarantee would be given against the loan of Rs. 50 crores.

If these fantastic suggestions were to be considered why should one of two Government Corporations not run these ships in the India-U.K.-Continent run, instead of allowing only private companies

to benefit by such a loan? Why should the Private Sector so exasperate public opinion that it would be led to consider the advisability of running under the Public Sector all the new services which need to be started in India's economic interests and this might well include the services run by the established interests with inadequate tonnage.

(6) Even though the Government had announced that for the time being not more than one crore of rupees will be available for the purpose of non-lapsing shipping development fund, the shipowners have been putting forward proposals based upon approximately Rs. 50 crores being available in a 5 year-period on the basis of Rs. 10 crores a year. This suggestion may be regarded as perhaps the extreme length to which wishful thinking has led the established shipowners or their supporters.

(7) It was contended that if the shipowners were put on their feet they would be able to plough back adequate amounts into further runs of shipping, but if as in their suggestion, Indian shipping is to develop by means of loans or by the deferred payment system, most of the foreign exchange earned would go towards meeting the annual interest and amortisement amounts leaving very little to be ploughed back.

(8) Another procedure suggested is referred to as self-financing, which means that against rupees placed with a Bank in India, the equivalent foreign exchange would be released by its counterpart in a foreign country.

This proposition is so alluring and apt partly to mislead that it is necessary to delve a little into its history. As is well known internal rupee resources of the shipping companies were so low that the progress i.e. net additions had come down to a mere 2,014 tons in 1949-50 and had it not been for the cheap loans provided by the Government, the future of Indian shipping would have been very dark indeed. Even so, the private resources were so low that the Government had to provide 85-90% of the cost of a ship to which the Company contributed from 10-15%, the debt being redeemable in 15-20 years, and the Company had to take a Government Director on the Board. It was under these conditions that Indian shipping reached 500,000 G.R.T. against the 600,000 G.R.T. the target laid down by the First Five Year Plan. As a matter of fact, the intake of the cheap loan was so low that 8 crores of rupees out of 23 crores provided in the First Five Year Plan had to spill over into the Second Five Year Plan. Moreover, the paucity of internal rupee resources is further illustrated by the fact that the target fixed for the First Five Year Plan was implemented only at the end of the second year

of the Second Five Year Plan. In the meantime, however, the shipping market had improved, the freights were high with the result that 45 crores which were available for the Second Five Year Plan were taken up by the industry, though it is necessary to remember that more than half of the amount was taken up by the Public Sector. However, soon after the Second Five Year Plan started the foreign exchange crisis commenced. There was a great strain on both the internal resources and the foreign exchange resources due to the ambitious nature of the Second Five Year Plan and other factors into which we need not go here. The up-shot was that to salvage the fundamentals of the Second Five Year Plan, it was decided to make available the foreign exchange resources only to what was known as the Core of the Plan, i.e. the Steel Plants, the dams, the Ports etc. But shipping was not included in the hard core of the Plan with the result that the Government could see only one way out of the difficulty and that was to show its readiness to consider the employment of foreign capital in Indian shipping on the basis of the usual 51:49 formula. As soon as this was announced last August, the established shipowners were up in arms against the proposal and the crusade started then became keener when the Merchant Shipping Bill was introduced in the Lok Sabha last February, and the writings on the subject of development of Indian Shipping took a new turn. Publishists who were clamouring for Government aid by way of loans and foreign exchange availability without which the Five Year Plan would end in 1961 with at least 200,000 GRT short thus achieving only about 700,000 GRT., suddenly began to argue as a result of the misplaced, out-moded fear of foreign capital, that if the Government would move the World Bank for a foreign exchange loan, or obtain it through some means or the other, the target could be fulfilled by the due date. Then when it was found that the Government was not able to do any of the things asked for and the need for foreign capital was becoming more and more pressing, the anti-foreign approach became broader and it was claimed that the 25% foreign capital permitted under the old Resolution of 1947 may be done away with and, if possible, only 100% Indian capital should be allowed to be used for development of Indian Shipping. The shift to the right when all the national requirements in shipping needed the swing to the left, can be explained as has since become manifestly clear, by the struggle of the established companies to maintain their vested interests in shipping only for themselves, not paying any heed to the requirements of the smaller shipping companies and certainly caring less for the arrival and growth of new shipping companies.

Such were the conditions prevailing in the world of Indian shipping, when to get out of the dilemma the idea of self-financed

ship-owning was mooted. This matter might well be helpful to enable the established companies with their resources to try and approach the target of the Second Five Year Plan, but it cannot be relied upon, particularly when it was pointed out that the main need was not mainly to reach the 900,000 GRT by the Second Five Year Plan but to get to national target of 2,000,000 tons by 1966.

Let us now see how the self-financing scheme is likely to prove a failure in so far as the higher objective is concerned. The self-financing scheme pre-supposes either fresh capital or reserves. For fresh capital there is not much scope, in view of the paucity of internal resources and as regard reserves, those of the well-established big five available for expansion come to only about 16 crores which are needed to reach the 900,000 GRT target and nothing left for the third plan. It is, therefore, difficult to understand how with these resources or rather want of any resources except now Rupee Capital, we can hope to reach the target of 2,000,000 tons by 1966, which has been agreed upon by all the parties concerned. Even if the target for the Second Five Year Plan, viz., 900,000 GRT is reached by 1961, 1,100,000 tons will remain to be achieved during the five years of the Third Five Year Plan. This will mean about 220,000 GRT per year, which in its turn on the basis of each vessel being 7000 GRT will amount to about 300 ships, i.e. 60 ships per year, costing roughly about 60 crores per annum. Now under the self-financing scheme, we must put up 60 crores of rupees per year, i.e. 5 crores a month. This amount of 5 crores a month will be required within the major period of Third Five Year Plan, because it is inconceivable that the present position in shipping which enables ships to be purchased at 20-25% down and the rest on instalment basis, spread over 5-7 years, should continue that long. Therefore, even if the Banks are prepared to provide annually 12 crores of foreign exchange for five years, we will not have the counterpart rupee funds or *vice versa*. Even if we have the funds, the Banks will not be prepared to put as large a figure as 300 crores in Indian shipping alone.

Profitable Foreign Capital Proportion.

On the other hand, if the amount is made available, the burden will be about 25 crores a year for instalments and interests. So, if we give up wishful thinking and if we take the bull by the horn, supposing from now onwards we decide to provide for foreign participation of capital on 51:49 basis, which means foreign exchange without any burden on the Government or the economy of the country, we shall be able to spread the balance of 100,000 tons GRT into 7 or 7½ years. The number of ships required would be 22 per year, costing about 20 crores per year, i.e. about 1½ to 1¾ crores per month, which on the basis of 51:49 would mean a little under a crore to be provided by India and a slightly smaller amount by the

foreign participants. Though this would be a great strain on the economy, it might conceivably be made available. In any case, the burden would be about halved, letting the foreign partner bear almost an equal share thereof.

If, however, it is desired to have a wider margin in the holding the basis 55:45 or even 60:40 might very well be adopted.

Foreign Capital Availability

The next question that arises is whether foreign capital would be forthcoming to the extent desired. That nobody can guarantee, but if it comes, our doors are open; if it does not then we are no worse off, except that as some people fear, we would have upset the established interests. But why should be established interests upset? Is it not in their interest that more Indian companies should be Members of the Conferences, where they have an isolated voice and plough a lonely furrow today? Because, until Indian shipping reached saturation point in all the trades, internal competition of an undesirable character cannot begin. But perhaps so far as Conferences are concerned, it can never operate because the Members of the Conferences compete only in efficiency and are not known to reduce rates just for the fun of the thing. Therefore, more Indian Companies will flourish and the established companies instead of being frightened of competition, should welcome more Indian colleagues, so that neither they nor the Government of the country are humiliated at the Conference table as has been alleged by certain spokesmen of the established interests.

It is argued that to make the self-financing scheme successful the Government of India must guarantee to the parties that give credits to Indian shipowners that if the period of repayment exceeds the fixed limit of time, the Government will release the foreign exchange that will be required for repayment. Now knowing the desperate situation in which the Government finds itself in regard to foreign exchange, is it reasonable to expect that it would undertake a responsibility for an unknown figure in an industry which is not in the hard core of the Plan? If anything, the Scheme suggests one more example of wishful thinking on the part of the established shipowners which has prevented a realistic approach to the problem of Indian Shipping Finance.

Discussion on various percentages.

Such being the case, it was felt that they will be prepared to go even up to 51:49 if the situation was to be saved particularly because with the creation of the Indian Register and the various

controls provided by the bill, the percentage of Capital and Directorate had no longer much significance.

It was also felt that the margin between 51:49 was too narrow even from the point of view of Company Law requirements and suggested 55:45.

Common Ground and varying views

Now one ground common was that the 1947 target must be reached by 1966 i.e. the end of the Third Five Year Plan and that foreign aid as loan or equity capital was essential to develop Indian shipping. The point of difference would seem to be the manner in which the goal is to be reached. Here two views emerged. The shipowners who appeared before us on behalf of the Indian National Steamship Owners Association were confident that the target could be achieved by means of foreign loans while we are of the opinion that more use should be made of foreign equity capital with suitable safeguards. Now taking it for granted that the target of the Second Plan namely 9 lakhs tons would be reached in time by 1961 and not two years later as has been the case with the target of 600,000 G.R.T. of the First Plan achieved, the tonnage for the five years of the Third Plan will be 11 lakhs and at least five lakhs more if the goal is to be raised to 25 lakhs by 1966 in view of the growth in the coastal and foreign trades. Nevertheless taking 20 lakhs only, the balance to be made up will be 11 lakhs which on the basis of 7,000 G.R.T. per steamer will require about 160 steamers for the plan period to which should be added about 15 more to make up for old tonnage coming up for scrapping.

This would require about 175 crores for five years or 35 crores every year in foreign exchange as we have no foreign exchange for shipping which is not in the core of the plan. Is it then seriously suggested that we will get about Rs. 3 crores every month as loan from foreign market except at high rates of interest which are likely to go higher as soon as our plans become public?

Now as prices of ships are low and available on instalment basis for say seven years, we will pay every year for instalment and interest over 25 crores and supposing in a year or two of depression and low freights we cannot pay, what will be the results? Perhaps even the end of all the mercantile marine we might have built up. It is not, therefore, the path of wisdom to reduce our debt liabilities by almost half by adopting 51:49 formula or at least by two-fifths by providing for maximum foreign equity capital with

527 G of I Ex.—4.

adequate safeguards as per the formula of 60:40 for Indo-foreign capital participation which, unlike the loan, further provides for sharing the risks of the business?

The established shipping interests are thus urging a path which retards the development of national shipping and can result in only a slow growth of their own shipping dependent upon their ability to borrow and the desire of international financial circles to lend them as much as 3 crores a month required for attaining the target of 20 lakhs tons by the agreed date of 1966

The Best Formula.

The following table shows:

(1) The burden put by varying proportions of Indian and foreign capital in shipping upon our resources in case of public companies with issued capital from 2.5 crores to 1.5 crores;

(2) The approximate number of fast marine steamers that can be purchased with foreign capital received on a minority basis in the present condition of the market for second-hand 7,000 G.R.T. ships.

Capital Proportion India : Foreign	51:49	55:45	60:40	66.7:33.3	75:25
Issued Capital in crores	1.5 2.0 2.5	1.5 2.0 1.5	1.5 2.0 2.5	1.5 2.0 2.5	1.5 2.0 2.5
	1 2 3	1 2 3	1 2 3	1 2 3	1 2 3
Lakhs Rs. (Indian)	77.102.128	86.110.138	90.120.150	100.133.166	112.150.188
Lakhs Rs. (foreign)	73.98.122	64.90.112	60.80.100	50.67.84	38.50.62
Ships on initial pay- ment of 25% with foreign capital and the balance payable 5/7 years from earnings	3.4.5	2.3.4	2.2/5.3.1/5.4	2.2.3.3.4	1.1.2 2.1

The above table shows:

(1) the *lowest burden* of only Rs. 77 lakhs of Indian Capital resources on the basis of 51:49 on an issued capital of Rs. 1.5 crores and the arrangement provides for the *highest benefit*, namely the purchase of 3 steamers for a six-weekly regular fast service in India's distant overseas trades;

(2) the *highest burden* of India's capital resources of Rs. 1.12 crores on 75:25 basis allowing the *lowest benefit* namely only 1.5 steamers with foreign capital.

And today we stand in urgent need of foreign exchange in order to develop our shipping and thereby save and earn about a hundred crores of foreign exchange every year and to meet the requirements of our growing industries and the progressing trades of India, coastal and overseas. This could be secured by foreign loans or foreign capital. Loans under our present economic position will be a great annual burden by way of return of capital and interest if the large sums required could be made available. We are, therefore, definitely of the opinion that the loans in the present context is difficult to obtain and even if we get loan, they will be required for the core of the plan. Hence in the interest of our alround development, particularly shipping industry we must obtain as much foreign capital on a minority basis as we can with whatever safeguards may be considered desirable.

An objection has been made referring to the different provisions of Company Law which entail the decision by a majority of 75 per cent of votes. We have considered those provisions and the other provisions that give Government certain powers, and are of the opinion that foreigners who will come to invest money will come with full consciousness of our laws and they will abide by the provision and do all in their powers to make industry as successful and profitable as possible as they have done in other industries. Even now they are in our shipping industry and they have also represented us in the shipping conferences and the evidence showed that they have discharged their trust creditably. We see no reason to apprehend that with all the safeguards in the Merchant Shipping Bill and other laws and the sovereign power and authority of our Government as well, the progress and the safety of our country will not be fully guaranteed.

In view of the importance of this issue and its far-reaching consequences to the economy of our country, and particularly development of Indian Shipping Industry, we are of the opinion that the proposal of the Government in the original bill as well as the latest proposal of the Government are not in the best interest of our economic development. In order to draw attention of the Members of the Parliament, we have ventured to submit rather a detailed note showing that the 51:49 formula is best for developing Indian Shipping but if a conservative approach is desired, at least the 60:40 formula must be adopted if our national mercantile marine is at all to serve the economy of the country.

NEW DELHI;

The 19th August, 1958.

NARDEO SNATAK

IV

जहाजरानी का उद्योग बहुत ही महत्वपूर्ण उद्योग है। नेवी से कम महत्व का शिपिंग उद्योग नहीं है बल्कि नौसेना के बाद दूसरे नम्बर पर है और इसको रक्षा की दूसरी पंक्ति कहना अति-शयोक्ति नहीं। देश में समाजवादी समाज की स्थापना यदि करनी है तो फिर पूंजीवाद को बढ़ावा देना उचित नहीं। भारत सरकार को चाहिये कि बजाये इसके कि वह इस महत्वपूर्ण उद्योग को देशी या विदेशी पूंजीपतियों के हाथ में दे बल्कि एक इस उद्योग का निगम स्थापित करे, क्योंकि सरकार इस उद्योग को तरक्की देने के लिये पूंजीपतियों की मदद करेगी और उसके लिये सरकार स्वयं तो रुपया देगी ही, वरन विदेशों से भी कर्ज की व्यवस्था करनी पड़ेगी। इसलिये मैं चाहता हूँ कि भारत सरकार निगम की स्थापना करे और संसद को चाहिये कि वह सरकार को ऐसा करने पर बाध्य करे। जहाँ तक विदेशी पूंजी का प्रश्न है मैं उसके सख्त मुखा-लिफ हूँ। विदेशी पूंजी का अर्थ यह है कि चाय बागान और अन्य उद्योगों से तो विदेशों को हर वर्ष करोड़ों रुपया जाता ही है अब इस महत्वपूर्ण उद्योग में भी विदेशी पूंजी को लगा कर करोड़ों रुपया विदेशों को मुनाफा तथा भारी तनख्वाहों की शक्ल में जाय। अंग्रेजों की पूंजी जो भारत में लगी है वह लगभग १ अरब की है और अंग्रेजों को अब तक मुनाफा की शक्ल में यदि ३० गुना नहीं तो निश्चित ही २० गुना मिल चुका है। विदेशी मुनाफा भारत की पंचवर्षीय योजना के अन्तर लगाई गई कुल पूंजी का यदि आधा नहीं तो चौथाई अवश्य है। ऐसी दशा में विदेशी पूंजी का स्वीकार देना बुद्धिमत्ता नहीं होगी।

एक बात और है कि देशी तथा विदेशी पूंजीपति मिलकर अभिष्य में राष्ट्रीयकरण तथा समाजीकरण में बाधा उत्पन्न करेंगे। हमको स्वेज नहर तथा ईरान के तेल के चपमों के राष्ट्रीय-करण की घटना साधारण रूप से नहीं लेनी चाहिये।

नेशनल शिपिंग बोर्ड की स्थापना बहुत ही महत्वपूर्ण है। इसमें नाविकों तथा ग्राम जनता की भी दिलचस्पी होना चाहिये। अतएव यह आवश्यक है कि इन लोगों का भी प्रतिनिधित्व नेशनल शिपिंग बोर्ड में हो। संसद का ध्यान इस ओर जाना चाहिये।

भाग XIV जो Penalties और Procedure से सम्बन्धित है उसमें तबदालो इस आशय की हो कि नाविकों के साथ जो भेदभाव का व्यवहार रखा गया है दूर किया जाये। जहाँ तक शिपओनर तथा मास्टर आफ़ डी शिप का सवाल है, उनके साथ उनके द्वारा की गई गलतियों तथा खामियों के प्राप्ति बहुत नमी का बर्ताव किया गया है। संसद का ध्यान इस ओर जाये और उचित संशोधन किया जाये। सीमेन के काम के घंटा, कम से कम वेतन, ग्रेजुटो के लिये योग्यता, बोर्ड पर काम की बिल्कुल साफ व्यवस्था और यूनियन का निर्माण आदि पर कमेटी ने जितना ध्यान दिया है काफी नहीं है। इस पर और अधिक ध्यान देना चाहिये।

नई दिल्ली,
१६ अगस्त, १९५८।

राम सेवक यादव

V

The definition of an "Indian Ship" having 60 per cent of Indian and 40 per cent of foreign capital could have been very advantageously accepted by the Select Committee if baseless fears and

unfounded doubts had not prevented a rational approach to the problem.

It is argued that by the end of the Second Five Year Plan the Indian Shipowners will have invested about 103 crores; but to get at the real investment during the 10 years of the two plan periods, we must deduct from that figure 63 crores Government loan and 28 crores pre-war capital, leaving just 18 crores for the period of 10 years of the Plan i.e. about two crores a year from the resources of the established Companies.

A Shipping Company having overseas services and maintaining them with 4 steamers would earn about 2 crores foreign exchange. Supposing these 4 vessels cost about 4 crores, paid with Indo-foreign capital on the basis of 51:49, the dividend on the basis of 5 per cent. would amount to 20 lakhs, out of which on the basis of 51:49, a little more than 10 lakhs will go to the Indian party and a little less than 10 lakhs will go to the foreigner; against these 20 lakhs, his capital together with ours will have given us about 2 crores of foreign exchange, i.e. twenty times the amount he can take out of the country.

The Bill as amended by the Committee gives the foreigners all that he can possibly desire, i.e. the maximum proportional advantage in the set-up with which he will be associated but provides for the Indian Shipping Industry the minimum amount of foreign capital which will mean so much less foreign exchange. Therefore, wisdom lies in getting the maximum benefit out of foreign capital and that too within the limits of a safe minority, as recommended by us i.e. on the basis of 60:40 which provides a reasonable and adequate margin for maintaining Indian control. Only thus can we justify in reason the provision under the Bill, as amended by the Select Committee, for representation of foreign capital in the directorate and even in the managing agency company.

Moreover, it is only by providing for the larger association of foreign capital under the 60:40 basis that we can comfortably meet the scarcity of our internal resources and foreign exchange. On the basis of Indo-foreign capital proportion of 75:25, as proposed by the Bill now, a proposed company with a capital of Rs. 150 lakhs will require the Indian side to put up as much as Rs. 112 lakhs, while the foreigner will bring only Rs. 38 lakhs in foreign exchange which, under the present favourable market position, will buy only $1\frac{1}{2}$ ship while the same company, under the 60:40 formula, can have more than $2\frac{1}{2}$ steamers. Therefore, keeping other factors in the definition of an Indian Ship the same, the Indo-foreign

participation should be changed from 75:25 to 60:40, which is not far removed from the 66-2|3:33-1|3 suggested by the Minister of Transport himself.

It is a well known fact that since the promulgation of 1947 Policy, no new company has been established nor is there much likelihood of new companies coming up unless the old policy is revised as suggested.

To meet the desired end, even at this late stage and to create a favourable atmosphere for the immediate growth of the Indian Mercantile marine, only one clause namely 21(b) (ii) needs to be amended to read:—

“not less than sixty per cent of the share capital of the company is held by citizens of India”.

NEW DELHI;
The 19th August, 1958.

SAVITRY DEVI NIGAM.

VI

This Bill as it has emerged out from the Select Committee has completely changed its complexion and also its purpose. I feel that existing Private shipping interests have had their way. National interest demands that tonnage should be doubled within this plan period. The existing conditions in the World market of shipping are very propitious and favourable, but without giving any indication as to how we are going to benefit we have shut out foreign participation to our great disadvantage and for the profit of the existing shipping companies.

The great cry and propaganda set afoot to the effect that foreign participation even to the extent of 60:40 ratio will jeopardise the National interest was thoroughly exposed when the witnesses of great standing were interrogated.

Unless Government sets up a Corporation for private shipping and takes advantage of the present situation, we will be surrendering public interest to private interest in refusing foreign participation.

Other changes of vital nature in setting up a Board and a Fund are a great improvement and I am sure the Government will honour the undertaking that the Chairman of the Board will not be a government servant.

NEW DELHI;
The 19th August, 1958.

HARISH CHANDRA MATHUR.

VII

The manner in which the Bill defines an Indian Ship misses an opportunity to foster shipping on a sound basis. We hold that the Government of India should take active steps to foster, develop and strengthen Indian shipping by floating more State Corporations. The role of shipping in our economy and its close bearing on national defence need no special emphasis. Hardly 5 per cent of our foreign trade is at present carried in Indian ships. On a rough estimate the nation pays more than 150 crores to foreign ships. This apart, as things stand, around 80 per cent of the capital of the industry is provided by Government and this too at a very low interest at 3 per cent. Freight is provided by the Government too. These factors indicate that there is a clear case for State enterprise on a wider scale. If, however, for any reason the State shall not expand its activities in the field of mercantile shipping, then, at least to protect a vital national interest and to render it immune to any foreign influence, an Indian ship should have been so defined as to ensure hundred per cent Indian capital, control and management.

The Bill in the manner it defines an Indian ship provides for the participation of foreign capital though to a limited extent. Whereas we are not opposed to foreign capital in the form of aid or loans, the participation of foreign equity capital in so vital a sector of our national economy as shipping with its close connection with national defence is neither prudent nor desirable. The argument that 75 per cent Indian Capital and management will protect our national interest is not as convincing as it appears. That a block vote representing 25 per cent of the voting rights may be in a position to powerfully influence though not necessarily dominate Indian shipping is borne out by the history of world shipping. The "shipping interest" in the Court of Directors of the East India Company controlling 350 out of a total of 1824 votes acquired an influence far in excess of their numerical strength by judicious use of the block vote though it was not even as high as 25 per cent. It is not infrequently that managing agencies in Indian Joint Stock Companies have been able to control and manage the Companies in the manner they like with the block vote of less than 25 per cent. Experience and principle therefore demand that either the State plays its part in building Indian shipping or at least prevents foreign influences from getting a foothold in this sensitive spot of our national economy.

Another point of disagreement is the Bill does not provide that the trade carried in sailing vessels should be exclusively reserved for Indians. At present this important sector is very largely

dominated by non-Indian elements like the Portuguese, the Dutch and the Arabs.

We also disagree with the provision in section 64. Exemptions provided for Government ships from the applications of certain provisions of the Bill are, in our opinion, not fair to non-Government ships. We feel that as regards applicability of the provisions in the Bill, there should be no discrimination between the two. Government shipping should prove its superiority by higher efficiency, greater economy and superior management. It case is lost if it is to be provided with artificial crutches.

NEW DELHI;
The 19th August, 1958.

V. K. DHAGE
NATH PAI

VIII

The Select Committee have decided in Clause 12 in connection with the definition of an Indian Ship that the foreign investment will be limited to the extent of 25 per cent and investment of Indian nationals will be 75 per cent. This ratio was provided in the 1947 Resolution. It had failed to attract foreign capital. Also in the light of our economic development and the progress we desire in the Shipping Industry and further in view of our difficulties regarding the availability of capital and paucity of foreign exchange, it is in the national interest that foreign investment should be allowed in the ratio of 60 per cent Indian Nationals and 40 per cent foreign investors. We would have suggested 51:49 per cent formula as it has been accepted by the Government in several other industries, but if a more conservative formula is desired, 60:40 should meet the requirements.

During the first two years after the War the existing companies added a lot of tonnage to their fleet. A few new companies were started, but the process soon ceased and for some years before the promulgation of the First Five Year Plan, hardly any progress was made and even so for the first year hardly any response was made and when progress started in the third year of the plan, it was found that the amount of about Rs. 20 crores allocated for shipping was not taken up and had to spill over into the Second Plan, though the Government were prepared to give loans upto 85 to 90 per cent of the cost of a ship repayable during 15 to 20 years. This delay in using the loan money resulted in the First Plan being implemented in 1958, two years after the end of the Plan in 1956.

For the Second Five Year Plan, various targets for shipping varying from 15 lakhs to 10 lakhs were put by different parties, but owing to financial stringency, the Planning Commission laid down

the target of only 900,000 tons. This time, however, owing to the greater awareness about shipping and its possibilities, the total amount of 45 crores available for the Second Five Year Plan was picked up almost within a year of its announcement, but owing to the prices of tonnage having risen in the meantime and difficulties having arisen about foreign exchange, it was feared that by 1961 the target of 900,000 G.R.T. would be short by 200,000 G.R.T. At this stage in September, 1957, the Minister for Shipping courageously announced in the Lok Sabha that despite the Resolution of 1947, he was prepared to consider the common industrial formula of 51:49 for the participation of foreign capital in Indian shipping too. The shipping interests which had not been able to fulfil the earlier target, started a campaign against foreign capital which was intensified when the Bill was introduced in February, 1958. To show that there was no need for foreign capital, the earlier fear that there would be a shortage of 200,000 tons was replaced by the optimistic guess that after all shipping would be able to meet the target, if the Government rendered adequate assistance. Later as the tempo regarding participation of foreign capital grew, the shipping interests alleged that they could meet the target with very little Government assistance and in the final phase when the Select Committee were appointed, it was argued that taking advantage of the *self-financing* and deferred payment arrangements, Indian shipping would be able to reach the target more or less on its own without any Government aid at all. This move was helped by the fact that owing to an economic recession, the prices of tonnage had dwindled and a good opportunity presented itself for adding to Indian tonnage. But besides paucity of internal resources, the other snag was foreign exchange. Even so, attempts were made to show that by scrapping a few crores from here and some crores from there, the target could be met and it was boldly alleged that shipping interests were in a position to reach the target by 1961. But wishful thinking did not end there. When an enquiry was made as to how they would meet the target of 2,000,000 G.R.T., by 1962—a target which was fixed in 1947 for implementation by 1954, various impracticable suggestions were put forward largely based on wishful thinking.

The question that arises now is whether foreign capital would be forthcoming to the extent desired if 60:40 formula was accepted. That nobody can guarantee, but if it comes our doors are open; if it does not then we are no worse off.

It will not be out of place to examine the self-financing scheme a bit critically. To make it successful, the Government of India must guarantee to the parties that give credits to Indian shipowners that if the period of repayment exceeds the fixed limit of time, the

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Government will release the foreign exchange that will be required for repayment. Knowing now the desperate situation in which the Government finds itself in regard to foreign exchange, is it reasonable to expect that it would undertake a responsibility for an unknown figure in an industry which is not in the hard core of the Plan? If anything, the Scheme suggests one more example of wishful thinking on the part of the established shipowners which has prevented a realistic approach to the problem of Indian Shipping Finance.

Nevertheless one ground common was that the 1947 target must be reached by 1966 i.e., the end of the Third Five Year Plan and that foreign aid as loan or equity capital was essential to develop Indian shipping. The point of difference would seem to be the manner in which the goal is to be reached. Here two views emerged. The shipowners who appeared before us on behalf of the Indian National Steamship Owners Association were confident that the target could be achieved by means of foreign loans while we are of the opinion that more use should be made of foreign equity capital with suitable safeguards. Now taking it for granted that the target of the second Plan namely 9 lakhs G.R.T., would be reached in time by 1961 and not two years later as has been the case with the target of 6 lakhs G.R.T., of the First Plan, the tonnage for the five years of the Third Plan will be 11 lakhs and at least five lakhs more if the goal is to be raised to 25 lakhs by 1966 in view of the growth in the coastal and foreign trades. Nevertheless taking 20 lakhs only, the balance to be made up will be 11 lakhs which on the basis of 7,000 G.R.T., per steamer will require about 160 steamers for the plan period to which should be added about 15 more to make up for old tonnage coming up for scrapping.

This would require about 175 crores for five years or 35 crores every year in foreign exchange but we have no foreign exchange for shipping which is not in the core of the plan. Is it then seriously suggested that we will get about Rs. 3 crores every month as loan from foreign markets except at high rates of interests which are likely to go higher as soon as our plans become public?

As prices of ships now are low and available on instalment basis for say seven years, we will pay every year for instalment and interest over 25 crores, and supposing in a year or two of depression and low freights we cannot pay, what will be the results? Is it not, therefore, the path of wisdom to reduce our debt liabilities by almost half by adopting 51:49 formula or at least by two-fifth, by providing for maximum foreign equity capital with adequate safeguards as per the formula of 60:40 for Indo-foreign capital participation which, unlike the loan, further provides for sharing the risks of the business?

The established shipping interests are thus urging a path which retards the development of national shipping and can result in only a slow growth of their own shipping dependent upon their ability to borrow and the desire of international financial circles to lend them as much as 3 crores a month required for attaining the target of 20 lakhs tons by the agreed date of 1966.

We stand today in urgent need of foreign exchange in order to develop our shipping and thereby save and earn about a hundred crores of foreign exchange every year paid by way of freight and to meet the requirements of our growing industries and the progressing trades of India, coastal and overseas. This could be secured by foreign loans for foreign capital. Loans under our present economic position will be a great annual burden by way of return of capital and interest if the large sums required could be made available. Hence in the interest of our around development, particularly of our shipping industry we must obtain as much foreign capital on a minority basis as we can with whatever safeguards may be considered desirable.

In view of the importance of this issue and its far-reaching consequences to the economy of our country and particularly the development of the Indian Shipping Industry, the proposal of the Government regarding proportion of foreign capital in the original bill as well as the latest proposal of the Government is not in the best interest of our economic development. Hence this detailed note to explain the position fully that at least the 60:40 formula must be adopted if our national mercantile marine is to serve the economy of the country.

NEW DELHI;
The 19th August, 1958.

MOOL CHAND JAIN.

IX

Keeping in view the hardships that Indian shipping concerns had to undergo during the old regime, it is difficult to reconcile to the idea of foreign participation even to the extent of 25 per cent. If, however, taking into account the depressing state of buyer's market and the foreign exchange difficulties, it is pertinent to review and revise our attitude and decision in this matter, the wise course was to have resorted to foreign loans or self-financing devise, with all the vigour and resources that we can demand only after we had the occasion to note the balance-sheet in the light of our efforts and experience. We could have been justified in opening the door to equity participation. It is very pertinent to believe, that while we can manage to secure foreign loans or credit on deferred payment for the core of our Plan, something could have been equally, if not more,

successful in the case of our desire to increase our tonnage. Apart from this view-point, it will not be amiss to mention that permission to foreign participation in management in proportion to their investment is a concession which will even pleasingly surprise the foreign participants. As much as I know, situations in the foreign markets are such that 25 per cent permissive ceiling of participation in management can be successfully bargained for higher participation or increased investment of foreign capital. Judged from this background, I had a shrewd suspicion that we could not display better wisdom than the situations obtaining gave us the opportunity to do. This is where I strike my note of dissent from the collective mind of the Committee, though with a real sense of regret.

NEW DELHI;
The 19th August, 1958.

RAJENDRA SINGH.

X

While in general agreement with the rest of the provisions of the bill as it is emerging from the Select Committee I have to strike a different note as regards the proposed definition of 'Indian Ship'.

Urgency about covering our sea borne trade with Indian ships to the greatest extent possible is accepted. In order to achieve this objective our total shipping must be nearly of 20 lakhs G.R.T. In the present context we have not the wherewithals nor are likely to have in the foreseeable future to have that much tonnage either through State and/or private efforts. I do not think it is necessary to further restrict the formula of 51:49 per cent participation so far as shipping is concerned.

Apprehensions expressed in some quarters about 49 per cent participation by foreign capital seem to be more imaginary than real. The necessity of saving and conserving foreign exchange and huge freight charges we are bearing today by far outweighs the consequences so far pointed out.

Other conditions laid down in the new definition are acceptable.

NEW DELHI;
The 19th August, 1958.

GHANSHYAMLAL OZA.

Bill No. 3B of 1958.

THE MERCHANT SHIPPING BILL, 1958

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interests and for that purpose to establish a National Shipping Board and a Shipping Development Fund, to provide for the registration of Indian ships and generally to amend and consolidate the law relating to merchant shipping.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

PART I

PRELIMINARY

- 5 1. (1) This Act may be called the Merchant Shipping Act, 1958. Short title
and Com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. (1) Unless otherwise expressly provided, the provisions of Application
of Act.
10 this Act which apply to ships which are registered in India or which in terms of this Act are required to be so registered shall so apply wherever the ships may be.

(2) Unless otherwise expressly provided, the provisions of this Act which apply to ships other than those referred to in sub-section

(1) shall so apply only while any such ship is within India, including the territorial waters thereof.

3. In this Act, unless the context otherwise requires,—

(1) “coasting ship” means a ship exclusively employed in trading between any port or place in India and any other port⁵ or place on the continent of India or between ports or places in India and ports or places in Ceylon or Burma;

• (2) “coasting trade of India” means the carriage by sea of passengers or goods from any port or place in India to any other port or place on the continent of India; 10

(3) “collision regulations” means the regulations made under section 285 for the prevention of collisions at sea;

(4) “company” means a company as defined in section 3 of the Companies Act, 1956; 1 of 1956.

(5) “country to which the Load Line Convention applies”¹⁵ means,—

(a) a country the Government of which has been declared or is deemed to have been declared under section 283 to have accepted the Load Line Convention and has not been so declared to have denounced that Convention; 20

(b) a country to which it has been so declared that the Load Line Convention has been applied under the provisions of article twenty-one thereof, not being a country to which it has been so declared that that Convention has ceased to apply under the provisions of that article; 25

(6) “country to which the Safety Convention applies” means,—

(a) a country the Government of which has been declared under section 283 to have accepted the Safety Convention and has not been so declared to have denounced³⁰ that Convention;

(b) a territory to which it has been so declared that the Safety Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend; 35

(7) “court” in relation to sections 178 to 183 (inclusive) means a civil or revenue court;

(8) “Director-General” means the Director-General of Shipping appointed under section 7;

(9) "distressed seaman" means a seaman engaged under this Act who, by reason of having been discharged or left behind from, or shipwrecked in, any ship at a place outside India, is in distress at that place;

5 (10) "effects", in relation to a seaman, includes clothes and documents;

(11) "equipment", in relation to a ship, includes boats, tackle, pumps, apparel, furniture, life saving appliances of every description, spars, masts, rigging and sails, fog signals, lights, shapes and signals of distress, medicines and medical and surgical stores and appliances, charts, radio installations, appliances for preventing, detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gears and appliances of all kinds and all other stores or articles belonging to or to be used in connection with or necessary for the navigation and safety of the ship;

15 (12) "fishing vessel" means a ship fitted with mechanical means of propulsion which is exclusively engaged in sea fishing for profit;

20 (13) "foreign-going ship" means a ship, not being a home-trade ship, employed in trading between any port or place in India and any other port or place or between ports or places, outside India;

(14) "free board" means—

25 (a) in relation to a decked vessel, the distance above the waterline measured vertically at the side of the vessel amidships from the position of the upper edge of the uppermost complete deck; and

30 (b) in the case of any other vessel, the distance above the waterline measured vertically at the side of the vessel amidships from the upper edge of the permanent bulwark of the vessel;

(15) "High Court", in relation to a vessel, means the High Court within the limits of whose appellate jurisdiction—

35 (a) the port of registry of the vessel is situate; or

(b) the vessel is for the time being; or

(c) the cause of action wholly or in part arises;

40 (16) "home-trade ship" means a ship not exceeding three thousand tons gross which is employed in trading from any port or place in India to any other port or place on the continent of India or from ports or places in India to ports or places in Ceylon, Maladive Islands or Burma;

(17) "Indian consular officer" means the consul-general, consul, vice-consul, consular agent and proconsul appointed as such by the Central Government, and includes any person authorised by the Central Government to perform the functions of consul-general, consul, vice-consul, consular agent or pro-consul; 5

(18) "Indian ship" means a ship registered as such under this Act and includes any ship registered at any port in India at the commencement of this Act which is recognized as an Indian ship under the proviso to sub-section (2) of section 22; 10

(19) "load line certificate" means the certificate issued under section 316 or section 321;

(20) "Load Line Convention" means the Convention signed in London on the 5th day of July, 1930, for promoting safety of life and property at sea, as amended from time to time; 15

(21) "Marine Board" means a Board of Marine Inquiry convened under section 373;

(22) "master" includes any person (except a pilot or harbour master) having command or charge of a ship;

(23) "owner" means— 20

(a) in relation to a ship, the person to whom the ship or a share in the ship belongs;

(b) in relation to a sailing vessel, the person to whom the sailing vessel belongs;

(24) "passenger" means any person carried on board a ship except— 25

(a) a person employed or engaged in any capacity on board the ship on the business of the ship;

(b) a person on board the ship either in pursuance of the obligations laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances which neither the master nor the charterer, if any, could have prevented or forestalled; 30

(c) a child under one year of age;

(25) "passenger ship" means a ship carrying more than twelve passengers; 35

(26) "pilgrim" means a person making a pilgrimage and, in the case of a passenger on board a pilgrim ship, includes every

person accompanying or travelling with the person making the pilgrimage;

(27) "pilgrimage" means pilgrimage to any holy place in the Hedjaz;

5 (28) "pilgrim ship" means a ship which makes a voyage to or from the Hedjaz during the season of the pilgrimage and which carries pilgrims in a proportion of not less than one pilgrim for every one hundred tons of the gross tonnage of the ship;

10 (29) "port of registry", in relation to a ship or a sailing vessel, means the port at which she is registered or is to be registered;

(30) "prescribed" means prescribed by rules made under this Act;

15 (31) "proceeding" in relation to sections 178 to 183 (inclusive) includes any suit, appeal or application;

(32) "proper officer" means the officer designated by the Central Government to be the proper officer at the port or place and in respect of the matter to which reference is made in the provision of this Act in which the expression occurs;

20 (33) "proper return port", in relation to a master, seaman or apprentice discharged or left behind, means the port at which the master, seaman or apprentice was engaged, or the port agreed to as such by the master, seaman or apprentice, as the case may be;

25 (34) "radio inspector" means a person appointed as such under section 10;

(35) "registrar" means the registrar referred to in section 24;

30 (36) (a) "repatriation expenses" means expenses incurred in returning a distressed seaman to a proper return port and in providing him with necessary clothing and maintenance until his arrival at such port, and includes in the case of a shipwrecked seaman the repayment of expenses incurred in conveying him to port after shipwreck and maintaining him while being so conveyed; and

35 (b) "excepted expenses", in relation to repatriation expenses, means repatriation expenses incurred in cases where the cause of the seaman being left behind is desertion or absence without leave or imprisonment for misconduct, or discharge from his ship by a Marine Board on the ground of misconduct;

(37) "Safety Convention" means the Convention for the Safety of Life at Sea signed in London on the 10th day of June, 1948, as amended from time to time;

(38) "safety convention certificate" means a safety certificate, a qualified safety certificate, a safety equipment certificate, a qualified safety equipment certificate, a safety radio telegraphy certificate, a safety radio telephony certificate or an exemption certificate issued under Part IX;

(39) "sailing vessel" means any description of vessel provided with sufficient sail area for navigation under sails alone, whether or not fitted with mechanical means of propulsion, and includes a rowing boat or canoe but does not include a pleasure craft;

(40) "salvage" includes all expenses properly incurred by the salvor in the performance of salvage services;

(41) "sea-going", in relation to a vessel, means a vessel proceeding to sea beyond inland waters or beyond waters declared to be smooth or partially smooth waters by the Central Government by notification in the Official Gazette;

(42) "seaman" means every person (except a master, pilot or apprentice) employed or engaged as a member of the crew of a ship under this Act, but in relation to sections 178 to 183 (inclusive) includes a master;

(43) "seamen's employment office" means the seamen's employment office referred to in section 12;

(44) "seamen's welfare officer" means the seamen's welfare officer referred to in section 13;

(45) "ship" does not include a sailing vessel;

(46) "shipping master" means the shipping master referred to in section 11; but in relation to any seaman for the purposes of sections 178 to 183 (inclusive) means a shipping master appointed,—

(i) for the port at which the seaman entered into, or is believed to have entered into, an agreement, or

(ii) where the seaman did not enter into his agreement in India, for the port to which the seaman has returned, or is expected to return, on the completion of his latest voyage;

(47) "shipping office" means the shipping office referred to in section 11;

(48) "surveyor" means the surveyor referred to in section 9;

(49) "tidal water" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbour;

(50) "tindal" means the person in command or charge of a sailing vessel;

(51) "unberthed passenger" means a passenger of the age of twelve years or upwards for whom no separate accommodation in any cabin, state room or saloon is reserved,*** and in the computation of passengers for any of the purposes of Part VIII, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one unberthed passenger;

(52) "unberthed passenger ship" means a ship carrying more than thirty unberthed passengers;

(53) "valid international load line certificate" means a certificate purporting to have been issued in accordance with the Load Line Convention in respect of a ship, other than an Indian ship, by the Government of the country in which the ship is registered;

(54) "valid safety convention certificate" means a certificate purporting to have been issued in accordance with the Safety Convention in respect of a ship, other than an Indian ship, by the Government of the country in which the ship is registered;

(55) "vessel" includes any ship, boat, sailing vessel, or other description of vessel used in navigation;

(56) "voyage" for the purposes of Part VIII, means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(57) "wages" includes emoluments;

(58) "wreck" includes the following when found in the sea or in tidal water or on the shores thereof—

(a) goods which have been cast into the sea and then sink and remain under water;

(b) goods which have been cast or fall into the sea and remain floating on the surface;

(c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;

(d) goods which are thrown away or abandoned; and

(e) a vessel abandoned without hope or intention of recovery;

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(59) "young person" means a person under eighteen years of age.

PART II

NATIONAL SHIPPING BOARD

Establishment of National Shipping Board.

4. (1) With effect from such date as the Central Government may, 10 by notification in the Official Gazette, specify in this behalf, there shall be established a Board to be called the National Shipping Board (hereinafter in this Part referred to as "the Board").

(2) The Board shall consist of the following members, namely:—

(a) five members elected by Parliament, three by the House 15 of the People from among its members and the other two by the Council of States from among its members;

(b) such number of other members, not exceeding sixteen as the Central Government may think fit to appoint to the Board, to represent—

20

(i) the Central Government,

(ii) shipowners,

(iii) seamen, and

(iv) such other interests as, in the opinion of the Central Government, ought to be represented on the Board: 25

Provided that the Board shall include an equal number of persons representing the shipowners and seamen.

(3) The Central Government shall nominate one of the members of the Board to be the Chairman of the Board.

(4) The Board shall have power to regulate its procedure. 30

Functions of National Shipping Board.

5. The Board shall advise the Central Government—

(a) on matters relating to Indian shipping, including the development thereof; and

(b) on such other matters arising out of this Act as the Central Government may refer to it for advice.

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6. (1) The Central Government may make rules to carry out the purposes of this Part.

Power to make rules in respect of matters in this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of members of the Board and the manner of filling casual vacancies in the Board;

(b) the appointment of officers and other employees to enable the Board to discharge its functions under section 5 and the terms and conditions of their service;

(c) the travelling and other allowances payable to members of the Board.

PART III

GENERAL ADMINISTRATION

7. (1) The Central Government may, by notification in the Official Gazette, appoint a person to be the Director-General of Shipping for the purpose of exercising or discharging the powers, authority or duties conferred or imposed upon the Director-General by or under this Act.

Director General of Shipping.

(2) The Central Government may, by general or special order, direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this Act as may be specified in the order, shall, subject to such conditions and restrictions as may be so specified, be exercisable also by the Director-General or by such other officer as may be specified in the order.

(3) The Director-General may, by general or special order, and with the previous approval of the Central Government, direct that any power or authority conferred upon or delegated to, and any duty imposed upon, the Director-General by or under this Act may, subject to such conditions and restrictions as he may think fit to impose, be exercised or discharged also by such officer or other authority as he may specify in this behalf.

8. (1) The Central Government may establish and maintain at each of the ports of Bombay, Calcutta and Madras and at such other port in India as it may consider necessary an office of the Mercantile Marine Department for the administration of this Act and the rules and regulations thereunder.

Mercantile Marine Department.

(2) The office of the Mercantile Marine Department at the port of Bombay, Calcutta or Madras shall be in the charge of a principal

officer, and the office at any other port shall be in the charge of such officer as the Central Government may appoint in this behalf.

(3) In the discharge of their duties, the principal officer and other officers shall be subject to the control of the Director-General.

Surveyors. 9. (1) The Central Government may, by notification in the Official Gazette, appoint at such ports as it may consider necessary as many persons as it may think fit to be surveyors for the purposes of this Act.

(2) The surveyors may be nautical surveyors, ship surveyors or engineer and ship surveyors. 10

(3) At any port at which no surveyor appointed under this section is available, the Central Government may, by notification in the Official Gazette, appoint any qualified person to perform the functions of a surveyor under this Act.

(4) All acts done under this Act by a principal officer of the Mercantile Marine Department or a person appointed under sub-section (3) relating to matters within the competence of a surveyor shall have the same effect as if done by a surveyor for the purposes of this Act. 15

Radio inspectors. 10. The Central Government may, by notification in the Official Gazette, appoint as many radio inspectors as it may consider necessary for the purpose of securing that the requirements of this Act and the rules and regulations thereunder relating to radio telegraphy, radio telephony and direction finders are complied with. 20

Shipping offices 11. (1) The Central Government may, by notification in the Official Gazette, establish a shipping office at every port in India in which it thinks it necessary so to do, and shall appoint thereto a shipping master and as many deputy shipping masters and assistant shipping masters as it may consider necessary. 25

(2) Shipping masters, deputy shipping masters and assistant shipping masters shall exercise their powers and discharge their duties subject to the general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf. 30

(3) The Central Government may direct that at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house or at the office of the port officer or at such other office as the Central Government may specify, and thereupon the same shall be conducted accordingly. 35 40

(4) All acts done by or before a deputy shipping master, an assistant shipping master and the officer to whom any business of the shipping office is committed under sub-section (3) shall have the same effect as if done by or before a shipping master for the purposes of this Act

12. (1) The Central Government may, by notification in the Official Gazette, establish at every port in India in which it thinks it necessary so to do, a seamen's employment office and shall appoint there-to a director and as many deputy directors and assistant directors as it may consider necessary. Seamen's employment offices.

(2) The directors, deputy directors and assistant directors shall exercise their powers and discharge their duties subject to the general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf.

15 (3) All acts done by or before a deputy or assistant director shall have the same effect as if done by or before a director for the purposes of this Act

(4) The Central Government may, by notification in the Official Gazette, direct that at any port at which no separate seamen's employment office is established, the functions of the seamen's employment office in that port shall be discharged by such person or body of persons as it may specify in the notification, and thereupon the office of the person or body of persons so specified shall be deemed to be the seamen's employment office established at that port for the purposes of this Act

13. (1) The Central Government may appoint seamen's welfare officers at such ports in or outside India as it may consider necessary. Seamen's welfare officers.

(2) A seamen's welfare officer appointed under sub-section (1) shall perform—

(a) in the case of any such officer appointed at any port in India, such functions in relation to welfare of seamen as may be assigned to him by the Central Government,

35 (b) in the case of any such officer appointed at any port outside India, such functions in relation to welfare of seamen and such functions of an Indian consular officer under Part VII as may be assigned to him by the Central Government

(3) If any seamen's welfare officer appointed at any port outside India performs any functions assigned to an Indian consular officer under Part VII, such functions shall have the same effect as if they had been performed by an Indian consular officer for the purposes of that Part.

PART IV

SHIPPING DEVELOPMENT FUND

Formation
of Shipping
Development
Fund.

14. There shall be formed a fund to be called the Shipping Development Fund (hereinafter in this Part referred to as "the Fund") and there shall be credited thereto—

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(a) the amount of such grants as the Central Government may make for being credited to the Fund;

(b) the amount of any loans advanced by the Central Government to the Committee constituted under section 15 for carrying out the objects of the Fund;

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(c) such sums of money as may, from time to time, be realised out of repayment of loans made from the Fund or from interest on loans or dividends from investments made from the Fund;

(d) such other sums as may be received for being credited to the Fund.

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Shipping
Deve-
lopment
Fund
Committee.

15. (1) The Central Government shall constitute a committee to be called the Shipping Development Fund Committee (hereinafter in this Part referred to as "the Committee") consisting of a chairman and such number of other members, not exceeding six, as the Central Government may think fit to appoint thereto.

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(2) The Committee so constituted shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property and may by that name sue and be sued.

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(3) The Committee shall have power to regulate its own procedure.

Application
of the Ship-
ping Deve-
lopment
Fund.

16. (1) The Fund shall vest in the Committee and shall be applied towards meeting the expenses of the Committee and for granting loans and financial assistance in any other form to persons of the description mentioned in section 21 for acquisition and maintenance of ships.

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(2) The Committee shall not grant any loan or give any financial assistance to any person referred to in sub-section (1) except on such terms and conditions as the Central Government may from time to time specify.

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(3) The Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as the Central Government may, in consultation with the Comptroller and Auditor-General of India, prescribe.

40

(4) The accounts of the Committee shall be audited by the Comptroller and Auditor-General of India or a person authoris-

ed by him in this behalf at such intervals as the Comptroller and Auditor-General of India may specify and any expenditure incurred in connection with such audit shall be payable by the Committee.

(5) The Comptroller and Auditor-General of India and any person 5 authorised by him in connection with the audit of the accounts of the Committee shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of 10 books, accounts, connected vouchers and other documents and papers and to inspect any office of the Committee.

(6) The accounts of the Committee as certified by the Comptroller and Auditor-General of India or any person authorised by him in this behalf, together with the audit report thereon, shall be forwarded 15 to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

17. No act done or proceeding taken by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Committee.

20 18. The Central Government may, by notification in the Official Gazette, declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and thereupon all the property vested in the Committee shall vest in the Central Government.

25 19. (1) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

30 (a) the term of office of members of the Committee and the manner of filling casual vacancies in the Committee;

(b) powers of the Chairman of the Committee;

(c) the travelling and other allowances payable to members of the Committee;

35 (d) the appointment of officers and other employees of the Committee and the terms and conditions of their service;

(e) the custody and investment of the Fund;

(f) the execution of instruments and the mode of entering into contracts by or on behalf of the Committee and the proof 40 of documents purporting to be executed, issued or signed by or on behalf of the Committee;

(g) any other matter which may be or is to be prescribed on behalf of the Committee;

Act and proceedings of Committee not to be invalid.

Dissolution of the Committee.

Power to make rules in respect to matters in this Part.

PART V

REGISTRATION OF INDIAN SHIPS

Application of
Part.

20. This Part applies only to sea-going ships fitted with mechanical means of propulsion.

Indian ships.

21. For the purposes of this Act, a ship shall not be deemed to be an Indian Ship unless owned wholly by persons to each of whom either of the following descriptions applies:—

(a) a citizen of India; or

(b) a company which satisfies the following requirements namely:—

(i) the principal place of business of the company is in India;

(ii) at least seventy-five per cent. of the share capital of the company is held by citizens of India;

(iii) not less than three-fourths of the total number of directors of the company are citizens of India;

(iv) the Chairman of the Board of Directors and the Managing Director, if any, of the company are citizens of India;

(v) the managing agents, if any, of the company are citizens of India or in any case where a company is the managing agent the company satisfies the requirements specified in sub-clauses (i), (ii), (iii) and (iv).

Obligation
to register.

22. (1) Every Indian ship, unless it is a ship which does not exceed fifteen tons net and is employed solely in navigation on the coasts of India, shall be registered under this Act.

(2) No ship required by sub-section (1) to be registered shall be recognised as an Indian ship unless she has been registered under this Act:

Provided that any ship registered at the commencement of this Act, at any port in India under any enactment repealed by this Act shall be deemed to have been registered under this Act and shall be recognised as an Indian Ship.

(3) A ship required by this Act to be registered may be detained until the master of the ship, if so required, produces a certificate of registry in respect of the ship.

*Procedure for registration*Ports of
registry.

23. (1) The ports at which registration of ships shall be made shall be the ports of Bombay, Calcutta and Madras and such other ports in India as the Central Government may, by notification in the Official Gazette, declare to be ports of registry under this Act.

(2) The port at which an Indian ship is registered for the time being under this Act shall be deemed to be her port of registry and the port to which she belongs.

24. At each of the ports of Bombay, Calcutta and Madras, the Registrars of Indian ships, the principal officer of the Mercantile Marine Department, and at any other port such authority as the Central Government may, by notification in the Official Gazette, appoint, shall be the registrar of Indian ships at that port.

25. Every registrar shall keep a book to be called the register book and entries in that book shall be made in accordance with the following provisions:—

- (a) the property in a ship shall be divided into ten shares;
- 10 (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than ten individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial interest of any number of persons represented by or claiming under or through any registered owner or joint owner;
- 15 (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;
- 20 (d) joint owners shall be considered as constituting one person and shall not be entitled to dispose in severalty of any interest in a ship or any share therein in respect of which they are registered;
- * * * * *
- 25 (e) a company may be registered as owner by its name.

26. An application for the registry of an Indian ship shall be made— Application for registry.

- (a) in the case of an individual, by the person requiring to be registered as owner or by his agent;
- 30 (b) in the case of more than one individual requiring to be so registered, by some one or more of the persons so requiring or by his or their agent; and
- (c) in the case of a company requiring to be so registered, by its agent;
- 35 and the authority of the agent shall be testified by writing, if appointed by an individual, under the hand of the person appointing him and, if appointed by a company, under its common seal.

27. (1) The owner of every Indian ship in respect of which an application for registry is made shall cause such ship to be surveyed Survey and measurement of ships before registry. by a surveyor and the tonnage of the ship ascertained in the prescribed manner.

(2) The surveyor shall grant a certificate specifying the ship's tonnage and build and such other particulars descriptive of the iden-

tity of the ship as may be prescribed and the certificate of the surveyor shall be delivered to the registrar before registry.

Marking of ship.

28. (1) The owner of an Indian ship who applies for registry under this Act shall, before registry, cause her to be marked permanently and conspicuously in the prescribed manner and to the satisfaction of the registrar and any ship not so marked may be detained by the registrar. 5

(2) Subject to any other provision contained in this Act and to the provisions of any rules made thereunder, the owner and the master of an Indian ship shall take all reasonable steps to ensure that the ship remains marked as required by this section, and the said owner or master shall not cause or permit any alterations of such marks to be made except in the event of any of the particulars thereby denoted being altered in the manner provided in this Act or except to evade capture by the enemy or by a foreign ship of war in the exercise of some belligerent right. 10 15

Declaration of ownership on registry.

29. A person shall not be registered as the owner of an Indian ship or of a share therein until he or, in the case of a company, the person authorised by this Act to make declarations on its behalf has made and signed a declaration of ownership in the prescribed form referring to the ship as described in the certificate of the surveyor and containing the following particulars:— 20

(a) a statement whether he is or is not a citizen of India; or in the case of a company, whether the company satisfies the requirements specified in clause (b) of section 21; 25

(b) a statement of the time when and the place where the ship was built or if the ship is built outside India and the time and place of building is not known, a statement to that effect; and in addition, in the case of a ship previously registered outside India, a statement of the name by which she was so registered; 30

(c) * * the name of her master;

(d) * * * the number of shares in the ship in respect of which he or the company, as the case may be, claims to be registered as owner; and 35

(e) a declaration that the particulars stated are true to the best of his knowledge and belief.

Explanation.—In respect of a ship or share owned by more than one person, a declaration may be made by such one of them as may be authorised by them. 40

Evidence on first registry.

30. On the first registry of an Indian ship; the following evidence shall be produced in addition to the declaration of ownership:—

(a) in the case of a ship built in India, a builder's certificate,

that is to say, a certificate signed by the builder of the ship and containing a true account of the proper denomination and the tonnage of the ship as estimated by him and the time when and the place where she was built, and the name of the person, if
 5 any, on whose account the ship was built; and if there has been any sale, the instrument of sale under which the ship or the share therein has become vested in the applicant for registry;

(b) in the case of a ship built outside India, the same evidence as in the case of a ship built in India unless the declarant
 10 who makes the declaration of ownership declares that the time and place of her building are not known to him, or that the builder's certificate cannot be procured, in which case there shall be required only the instrument of sale under which the ship or a share therein has become vested in the applicant for
 15 registry.

31. As soon as the requirements of this Act preliminary to Entry of registry have been complied with, the registrar shall enter in the particulars in register book the following particulars in respect of the ship:— book.

(a) the name of the ship and the name of the port to which
 20 she belongs;

(b) the details contained in the surveyor's certificate;

(c) the particulars respecting her origin stated in the declaration of ownership; and

(d) the name and description of her registered owner or
 25 owners, and, if there are more owners than one, the number of shares owned by each of them.

32. On the registry of a ship, the registrar shall retain in his Documents custody the following documents:— to be retained by registrar.

(a) the surveyor's certificate;

30 (b) the builder's certificate;

(c) any instrument of sale by which the ship was previously sold;

(d) all declarations of ownership.

33. (1) Where it appears to the Central Government that there is Power of Central Government to inquire into title of Indian ship to be so registered.
 35 any doubt as to the title of any Indian ship to be registered as an Indian ship, it may direct the registrar of her port of registry to require evidence to be given to his satisfaction within such time, not being less than thirty days as the Central Government may fix, that the ship is entitled to be registered as an Indian ship.

40 (2) If within such time as may be fixed by the Central Government under sub-section (1) evidence to the satisfaction of the registrar that the ship is entitled to be registered as an Indian ship is not given, the ship shall be liable to forfeiture.

Certificate of registry

Grant of
certificate of
registry.

34. On completion of the registry of an Indian ship, the registrar shall grant a certificate of registry containing the particulars respecting her as entered in the register book with the name of her master.

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Custody and
use of certifi-
cate.

35. (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge or interest whatever, had or claimed by any owner, mortgagee or other person to, on or in the ship.

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(2) No person, whether interested in the ship or not, who has in his possession or under his control the certificate of registry of a ship, shall refuse or omit without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship or to any registrar, customs collector or other person entitled by law to require such delivery.

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(3) Any person refusing or omitting to deliver the certificate as required by sub-section (2), may, by order, be summoned by any magistrate of the first class to appear before him and to be examined touching such refusal; and if the person is proved to have absconded so that the order of such magistrate cannot be served on him, or if he persists in not delivering up the certificate, the magistrate shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed, or as near thereto as circumstances permit.

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(4) If the master or owner of an Indian ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be guilty of an offence under this sub-section and the ship shall be liable to forfeiture.

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Power to
grant new
certificate
when ori-
ginal certi-
ficate is de-
faced, lost,
etc.

36. (1) In the event of the certificate of registry of an Indian ship being defaced or mutilated, the registrar of her port of registry may, on the delivery to him of that certificate, grant a new certificate in lieu of her original certificate.

(2) In the event of the certificate of registry of an Indian ship being mislaid, lost or destroyed or of the person entitled thereto being unable to obtain it from the custody of any other person, the registrar of her port of registry shall grant a new certificate in lieu of her original certificate.

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(3) If the port at which the ship is at the time of the event referred to in sub-section (2) or first arrives after the event is outside India, then the master of the ship or some other person having knowledge of the facts of the case shall make a declaration stating

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such facts and the names and descriptions of the registered owners of such ship to the best of the declarant's knowledge and belief to the nearest available Indian consular officer who may thereupon grant a provisional certificate containing a statement of the circumstances under which it is granted.

(4) The provisional certificate shall, within ten days after the first subsequent arrival of the ship at her port of discharge in India, be delivered by the master to the registrar of her port of registry and the registrar shall thereupon grant a new certificate of registry.

10 (5) If the certificate of registry stated to have been mislaid, lost or destroyed shall at any time afterwards be found, or if the person entitled to the certificate of registry obtains it at any time afterwards, the said certificate shall forthwith be delivered to the registrar of her port of registry to be cancelled.

15 37. Where the master of an Indian ship is changed, each of the following persons, that is to say,—

Endorsement
on certificate
of change of
master.

(a) if the change is made in consequence of the removal of the master by a Marine Board or by a court under this Act, the presiding officer of the Marine Board or of the court, as the case
20 may be;

(b) if the change occurs from any other cause,—

(i) in India, the registrar or any other officer authorised by the Central Government in this behalf at the port where the change occurs; and

25 (ii) outside India, the Indian consular officer at the port where the change occurs;

shall endorse and sign on the certificate of registry a memorandum of the change; and any customs collector at any port in India may refuse to permit any person to do any act there as master of an
30 Indian ship unless his name is inserted in or endorsed on her certificate of registry as her last appointed master.

38. (1) Whenever a change occurs in the registered ownership of an Indian ship, the change of ownership shall be endorsed on her certificate of registry either by the registrar of the ship's port of
35 registry or by the registrar of any port at which the ship arrives who has been advised of the change by the registrar of the ship's port of registry.

Endorsement
on certificate
of change of
ownership.

(2) The master shall, for the purposes of such endorsement by the registrar of the ship's port of registry, deliver the certificate of
40 registry to the registrar, forthwith after the change if the change occurs when the ship is at her port of registry, and if it occurs during her absence from that port and the endorsement under this

section is not made before her return, then, upon her first return to that port.

(3) The registrar of any port, not being the ship's port of registry, who is required to make an endorsement under this section may, for that purpose, require the master of the ship to deliver to him the ship's certificate of registry so that the ship need not thereby be detained and the master shall deliver the same accordingly.

Delivery of certificate of ship lost or ceasing to be an Indian ship.

39. (1) In the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt or broken up or ceasing for any reason to be an Indian ship, every owner of the ship or any share in the ship shall immediately on obtaining knowledge of the event, if no notice thereof has already been given to the registrar, give notice thereof to the registrar at her port of registry and that registrar shall make an entry thereof in the register book and its registry in that book shall be considered as closed except so far as relates to any unsatisfied mortgages entered therein.

(2) In any such case, except where the ship's certificate of registry is mislaid, lost or destroyed, the master of the ship shall, immediately if the event occurs in any port in India, or within ten days after his arrival in port if it occurs elsewhere, deliver the certificate to the registrar of the port or any other officer specified in this behalf by the Central Government if the port of arrival is in India, or if the arrival is in any port outside India to the Indian consular officer there, and the registrar if he is not himself the registrar of her port of registry or the officer so specified or the Indian consular officer, as the case may be, shall forthwith forward the certificate delivered to him to the registrar of her port of registry.

Provisional certificate for ships becoming Indian ships abroad.

40. (1) If at any port outside India a ship becomes entitled to be registered as an Indian ship, the Indian consular officer there may grant to her master on his application a provisional certificate containing such particulars as may be prescribed in relation to the ship and shall forward a copy of the certificate at the first convenient opportunity to the Director-General.

(2) Such a provisional certificate shall have the effect of a certificate of registry until the expiration of six months from its date or until the arrival of the ship at a port where there is a registrar whichever first happens, and on either of those events happening shall cease to have effect.

Temporary pass in lieu of certificate of registry.

41. Where it appears to the Central Government that by reason of special circumstances it is desirable that permission should be granted to any Indian ship to pass without being previously

registered from one port to any other port in India, the Central Government may authorise the registrar of the first-mentioned port to grant a pass in* such form as may be prescribed, and that pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

Transfers of ships, shares, etc.

42. (1) No person shall transfer or acquire any Indian ship or any share or interest therein without the previous approval of the Central Government and any transaction effected in contravention of this provision shall be void and unenforceable.

(2) The Central Government may, if it considers it necessary or expedient so to do for the purpose of conserving the tonnage of Indian shipping, refuse to give its approval to any such transfer or acquisition.

(3) Subject to the other provisions contained in this section, an Indian ship or a share therein shall be transferred only by an instrument in writing.

(4) The instrument shall contain such description of the ship as is contained in the surveyor's certificate or some other description sufficient to identify the ship to the satisfaction of the registrar and shall be in the prescribed form or as near thereto as circumstances permit and shall be executed by the transferor in the presence of and be attested by at least two witnesses.

43. (1) Every instrument for the transfer of an Indian ship or of a share therein when duly executed shall be produced to the registrar of her port of registry, and the registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share, as the case may be, and shall endorse on the instrument the fact of that entry having been made with the day and hour thereof.

(2) Every such instrument shall be entered in the register book in the order of its production to the registrar.

44. (1) Where the property in an Indian ship or share therein is transmitted to a person on the death or insolvency of any registered owner, or by any lawful means other than by a transfer under this Act,—

(a) that person shall authenticate the transmission by making and signing a declaration in the prescribed form (in this Act referred to as a declaration of transmission) identifying the ship and also a statement of the manner in which and the person to whom the property has been transmitted;

(b) if the transmission is consequent on insolvency, the declaration of transmission shall be accompanied by proper proof of such claim;

(c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by a succession certificate, probate or letters of administration under the Indian Succession Act, 1925, or a duly certified copy thereof.

39 of 1925

(2) The registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there are more persons than one, shall enter the names of all those persons, but those persons however numerous shall, for the purpose of the provisions of this Act with respect to the number of persons claiming to be registered as owners, be considered as one person:

Provided that nothing in this sub-section shall require the registrar to make an entry in the register book under this section, if he is of opinion that by reason of the transmission the ship has ceased to be an Indian ship.

Order for sale where ship has ceased to be an Indian ship.

45. (1) Where by reason of the transmission of any property in a ship or a share therein on death, insolvency or otherwise, a ship ceases to be an Indian ship, the registrar of her port of registry shall submit a report to the Central Government setting out the circumstances in which the ship has ceased to be an Indian ship.

(2) On receipt of such report, the Central Government may make an application to the High Court for a direction for the sale to any citizen of India or any company which satisfies the requirements specified in clause (b) of section 21 of the property so transmitted.

(3) The High Court may require any evidence in support of the application it thinks requisite and may make such order thereon and on such terms and conditions as it thinks just or may reject the application in any case it finds that the ship has not ceased to be an Indian ship; and in case the ship or the share is ordered to be sold, it shall direct that the proceeds of the sale after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise.

(4) Every application for sale shall be made within such time as may be prescribed:

Provided that an application may be admitted by the High Court after the time prescribed, if the Central Government satisfies the High Court that it had sufficient cause for not making the application within such time.

46. Where any court, whether under section 45 or otherwise, orders the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof; and every registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

Transfer of ship on sale by order of court.

47. (1) A registered ship or a share-therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (in this Act called a mortgage) shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument the registrar of the ship's port of registry shall record it in the register book.

Mortgage of ship or share.

(2) Mortgages shall be recorded by the registrar in the order in time in which they are produced to him for that purpose, and the registrar shall, by memorandum under his hand, notify on each mortgage that it has been recorded by him stating the day and hour of that record.

48. Where a registered mortgage is discharged, the registrar shall, on the production of the mortgage deed with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged, and on that entry being made the estate, if any, which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested, if the mortgage had not been made.

Entry of discharge of mortgage.

49. If there are more mortgages than one recorded in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is recorded in the register book and not according to the date of each mortgage itself.

Priority of mortgages.

50. Except in so far as may be necessary for making a mortgage ship or share available as a security for the mortgage debt, the mortgagee shall not, by reason of his mortgage, be deemed to be the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be owner thereof.

Mortgagee not deemed to be owner.

51. (1) A registered mortgagee of a ship or share shall be entitled to recover the amount due under the mortgage in the High Court, and when passing a decree or thereafter the High Court may direct that the mortgaged ship or share be sold in execution of the decree.

Rights of mortgagee.

(2) Subject to the provisions of sub-section (1), no such mortgagee shall merely by virtue of the mortgage be entitled to sell or otherwise dispose of the mortgaged ship or share.

Mortgage not affected by insolvency.

52. A registered mortgage of a ship or share shall not be affected by any act of insolvency committed by the mortgagor after the date of the record of such mortgage, notwithstanding that the mortgagor, at the commencement of his insolvency, had the ship or share in his possession, order or disposition, or was the reputed owner thereof, and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the insolvent or any trustee or assignee on their behalf.

Transfer of mortgages.

53. (1) A registered mortgage of a ship or share may be transferred to any person and the instrument effecting the transfer shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument, the registrar shall record it by entering in the register book the name of the transferee as mortgagee of the ship or share and shall, by memorandum under his hand, notify on the instrument of transfer that it has been recorded by him stating the day and hour of the record.

(2) The person to whom any such mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.

Transmission of interest in mortgage in certain circumstances.

54. (1) Where the interest of a mortgagee in a ship or share is transmitted on death, or insolvency, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share.

(2) The registrar, on receipt of the declaration and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

Name of ship

Rules as to name of ship.

55. (1) An Indian ship shall not be described by any name other than that by which she is for the time being registered.

(2) The registrar may refuse the registry of any Indian ship by the name by which it is proposed to register the ship if that name is already borne by another ship or if the name be so similar as is calculated or likely to deceive.

(3) A change shall not be made in the name of an Indian ship except in the prescribed manner.

(4) If any person acts or suffers any person under his control to act in contravention of this section or omits to do or suffers any person under his control to omit to do anything required under this sub-section, the ship may be detained until the provisions of this section are complied with:

Provided that nothing in this section shall apply to a foreign ship which has become, and is sought to be registered as, an Indian ship.

Registry of alterations, registry anew and transfer of registry

56. When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if the alteration is made at any port having a registrar, that registrar, or if it is made elsewhere, the registrar of the first port having a registrar at which the ship arrives after the alteration, shall, on application being made to him stating the particulars of the alteration, either cause the alteration to be registered or direct that the ship be registered anew.

57. (1) For the purpose of registry of an alteration in a ship the ship's certificate of registry shall be produced to the registrar, and the registrar shall, in his discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered or endorse and sign on the existing certificate a memorandum of the alteration.

(2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the registrar of the ship's port of registry in his register book; and for that purpose the registrar to whom the application for the registry of the alteration has been made (if he is not the registrar of the ship's port of registry) shall forthwith report to the last-mentioned registrar the particulars and facts as aforesaid, accompanied, where a new certificate of registry has been granted, by the old certificate of registry.

58. (1) Where any registrar, not being the registrar of the ship's port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either grant a provisional certificate describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

(2) Every such provisional certificate, or certificate provisionally endorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in India, be delivered to the registrar thereof and that registrar shall cause the ship to be registered anew.

(3) The registrar granting a provisional certificate, or provisionally endorsing a certificate under this section shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the registrar of the ship's port of registry, containing a similar statement as the certificate or endorsement. 5

Registry
anew on
change of
ownership.

59. Subject to the other provisions contained in this Act, where the ownership of any Indian ship is changed, the registrar of the port at which the ship is registered may, on the application of the owner of the ship, register the ship anew although registry anew is 10 not required under this Act.

Procedure
for registry
anew.

60. (1) Where a ship is to be registered anew, the registrar shall proceed as in the case of first registry, and on the delivery to him of the existing certificate of registry and on the other requisites to registry, or in the case of a change of ownership such of them as he 15 thinks material, being duly complied with, shall make such registry anew, and grant a certificate thereof.

(2) When a ship is registered anew, her former registry shall be considered as closed except so far as relates to any unsatisfied mortgage entered thereon, but the names of all persons appearing 20 on the former register to be interested in the ship as owners or mortgagees shall be entered in the new register and the registry anew shall not in any way affect the rights of any of those persons.

Transfer of
registry.

61. (1) The registry of any ship may, with the previous approval of the Director-General, be transferred from one port of registry to 25 another on the application to the registrar of the existing port of registry of the ship made by declaration in writing of all persons appearing in the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them and those rights shall in all respects 30 continue in the same manner as if no such transfer had been effected.

(2) On receipt of any such application the registrar shall transmit notice thereof to the registrar of the intended port of registry with a copy of all particulars relating to the ship and the names of all persons appearing in that register to be interested therein as owners or 35 mortgagees.

(3) The ship's certificate of registry shall be delivered to the registrar either of the existing or intended port of registry, and, if delivered to the former, shall be transmitted to the registrar of the intended port of registry.

(4) On receipt of the documents aforesaid the registrar of the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh

certificate of registry, and thenceforth such ship shall be considered to be registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship.

- 5 62. Where a ship has ceased to be registered as an Indian ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy, the ship shall not be re-registered until she has at the expense of the applicant for the registry been surveyed by a surveyor and certified by him to be seaworthy.
- Restrictions on re-regis-try of abandoned ships.

10

National character and flag

63. (1) The Central Government may, by notification in the Official Gazette, declare what shall be the proper national colours for all ships registered under this Act and for all ships which are not so registered but which are owned by the Government or by any local authority or by any body corporate established by or under any law for the time being in force in India or by a citizen of India; and different colours may be declared for different classes of ships.
- National colours for Indian ships.

- (2) Any commissioned officer of the Indian Navy, or any customs collector, or any Indian consular officer, may board any ship on which any colours are hoisted contrary to this Act and seize and take away the colours which shall be forfeited to the Government.

64. No person on board a ship which is not an Indian ship shall, for the purpose of making it appear to be an Indian ship, use the Indian national colours, unless the assumption of Indian character has been made (the burden of proving which shall lie on him) for the purpose of escaping capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.
- Unlawful assumption of Indian character.

65. No owner or master of an Indian ship shall knowingly do anything, or permit anything to be done, or carry or permit to be carried any papers or documents, with intent to conceal the Indian character of the ship from any person entitled by any law for the time being in force to inquire into the same, or with intent to assume a foreign character for the ship, or with intent to deceive any person so entitled as aforesaid.
- Concealment of Indian, or assumption of foreign character.

66. An Indian ship shall hoist the proper national colours—

- 35 — (a) on a signal being made to her by any vessel of the Indian Navy;
 (b) on entering or leaving any foreign port;
 (c) if of fifty tons gross tonnage or more, on entering or leaving any Indian port.
- 40

Indian ships to hoist proper national colours in certain cases.

National character of ship to be declared before clearance.

67. (1) A customs collector shall not grant a clearance for any ship until the master of such ship has declared to that officer the name of the country to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance.

(2) If a ship attempts to proceed to sea without such clearance she may be detained by any customs collector until the declaration is made. 5

Miscellaneous

Liabilities of ships not recognised as Indian ships.

68. Where it is declared by this Act that an Indian ship shall not be recognised as such, that ship shall not be entitled to any privileges, benefits, advantages or protection usually enjoyed by Indian ships or to use the Indian national colours for Indian ships or to assume the Indian national character, but so far as regards the payment of dues, the liability to fine and forfeiture and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised Indian ship. 15

Proceedings on forfeiture of ship.

69. Where any ship has either wholly or as to any share therein become subject to forfeiture under this Part, any commissioned officer of the Indian Navy, any customs collector or any Indian consular officer or any other officer authorised by the Central Government, may seize and detain the ship, and bring her for adjudication before the High Court, and the High Court may thereupon adjudge the ship with her equipment to be forfeited to the Government, and make such order in the case as to the High Court seems just and may award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship or any share therein as the High Court thinks fit. 25

Notice of trust not received.

70. No notice of any trust, express, implied or constructive, shall be entered in the register book or be receivable by the registrar, and subject to any rights and powers appearing by the register book to be vested in any other person, the registered owner of a ship or of a share therein shall have power to dispose of the ship or share in the manner provided in this Act and to give effectual receipts for any money paid or advanced by way of consideration. 35

Liability of owners.

71. Where any person is beneficially interested otherwise than by way of mortgage in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all the pecuniary penalties imposed by this or any other Act on the owners of ships or shares 40

therein, so nevertheless that proceedings for the enforcement of any such penalties may be taken against both or either of the said parties with or without joining the other of them.

72. (1) On application to the registrar and on payment of the prescribed fee, a person may, at any time during office hours, inspect any register book, and may obtain a certified copy of any entry in the register book.

Evidence of register book, certificate of registry and other documents.

(2) The following documents shall be admissible in evidence in any court in manner provided by this Act, namely:—

(a) any register book on its production from the custody of the registrar or other person having the lawful custody thereof;

(b) a certificate of registry under this Act purporting to be signed by the registrar or any other officer authorised in this behalf by the Central Government;

(c) an endorsement on a certificate of registry purporting to be signed by the registrar or any other officer authorised in this behalf by the Central Government;

(d) every declaration made in pursuance of this Part in respect of an Indian ship.

(3) A certified copy of an entry in a register book shall be admissible in evidence in any court and have the same effect to all intents as the original entry in the register book of which it is a copy.

73. The Central Government may, by notification in the Official Gazette, direct that, subject to such rules as may be made in this behalf, ships belonging to the Government other than ships of the Indian Navy may be registered as Indian ships under this Act and thereupon this Act, subject to any exceptions and modifications which may be made in the notification either generally or with respect to any class of ships belonging to Government, shall apply to ships belonging to Government registered in accordance with those rules as they apply to Indian ships registered in manner provided by this Act.

Power to register Government ships under this Part.

74. (1) The Central Government may make rules to carry out the purposes of this Part:

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

Power to make rules in respect of matters in this Part.

(a) the manner in which the tonnage of any ship shall be ascertained, whether for the purpose of registration or otherwise, including the mode of measurement;

(b) the recognition for the purpose of ascertaining the tonnage of any ship or for any other purpose, of any tonnage certificate granted in respect of any ship in any country outside India, the tonnage regulations of which are substantially the same as the tonnage rules made by the Central Government, including the conditions and restrictions subject to which such recognition may be granted; 5

(c) the manner in which surveys of ships shall be conducted and the form of certificates of surveying officers;

(d) the manner in which ships shall be marked; 10

(e) the form in which any document required by this Part shall be prepared and the particulars which it should contain;

(f) the persons by whom and the authorities before which any declaration required by this Part shall be made and the circumstances in which any such declaration may be waived and 15 other evidence accepted;

(g) the form of the instrument creating a mortgage on a ship or share or transferring a mortgage;

(h) the returns that shall be made by registrars to the Director-General or to such other authority as the Central Government may appoint and the form in which and the intervals within which such returns shall be made; 20

(i) the procedure for the registration, marking or alteration of the names of Indian ships;

(j) the fees that may be levied under this Part and the 25 manner in which such fees shall be collected;

(k) the manner in which registrars and other authorities may exercise their powers under this Part or maintain their books and other registers;

(l) the manner in which ships belonging to the Government, 30 to which the provisions of this Act may be made applicable under section 73, may be registered;

(m) any other matter which may be or is to be prescribed.

PART VI

CERTIFICATES OF OFFICERS

35

Masters, mates and engineers

Application
of Part.

75. This Part applies only to sea-going ships fitted with mechanical means of propulsion.

76. (1) Every foreign-going Indian ship, every home-trade Indian ship of two hundred tons gross or more when going to sea from any port or place in India and every ship carrying passengers between ports or places in India shall be provided with officers duly certificated under this Act according to the following scale, namely:—

Certificates of competency to be held by officers of ships

- (a) in every case, with a duly certificated master;
- (b) if the ship is a foreign-going ship or a home-trade passenger ship of one hundred and fifty tons gross or more, with at least one officer besides the master holding a certificate not lower than that of first mate in the case of a foreign-going ship and of mate in the case of a home-trade passenger ship;
- (c) if the ship is a home-trade ship, not being a passenger ship, of four hundred and fifty tons gross or more, with at least one officer besides the master holding a certificate not lower than that of mate;
- (d) if the ship is a foreign-going ship and carries more than one mate, then with the second mate duly certificated.

(2) Every foreign-going Indian ship when going to sea from any port or place in India shall be provided with engineers duly certificated under this Act according to the following scale, namely:—

- (a) if the ship is of one hundred nominal horse-power or more, with at least two engineers one of whom shall be a first class engineer designated as the chief engineer, and the other a first class or second class engineer designated as the second engineer;
- (b) if the ship is of less than one hundred nominal horse-power, with at least one first class or second class engineer designated as the chief engineer.

(3) Every home-trade Indian ship when going to sea from any port or place in India and every ship carrying passengers between ports or places in India shall be provided with engineers or engine drivers duly certificated according to the following scale, namely:—

- (a) if the ship is of fifty nominal horse-power or more, with at least one first class or second class engineer designated as the chief engineer;
- (b) if the ship is of less than fifty nominal horse-power, with at least one first class or second class engineer designated as the chief engineer, or with at least one engine driver of a sea-going ship.

(4) Every fishing vessel when going to sea from any port or place in India shall be provided—

(a) if the vessel exceeds twenty-five tons gross but does not exceed fifty tons gross, with a certificated skipper;

(b) if the vessel exceeds fifty tons gross, with a certificated skipper and a certificated second hand;

(c) if the vessel is of fifty nominal horse-power or more, with at least one engineer duly certificated, being an engineer of a fishing vessel, who shall be designated as the chief engineer;

(d) if the vessel is of less than fifty nominal horse-power, with at least one engineer duly certificated, being an engineer of a fishing vessel, who shall be designated as the chief engineer or with at least one engine driver of a fishing vessel duly certificated.

Explanation.—For the purposes of clause (c), persons holding certificates of competency as first class or second class engineers shall be deemed to be duly certificated and for the purposes of clause (d), persons holding certificates of competency as engine drivers of sea-going ships shall be deemed to be duly certificated.

(5) Nothing in this section which relates to engineers or engine drivers shall apply to any ship to which the provisions of the Inland Steam-vessels Act, 1917, apply.

1 of 1917.

Explanation.—In this section “nominal horse-power”, in relation to any ship, means the horse-power of the engines of the ship calculated in the prescribed manner.

When
officers
deemed duly
certificated.

77. Subject to the provisions contained in section 86, an officer shall not be deemed to be duly certificated under this Act unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade granted in accordance with this Act.

Grades of
certificates of
competency.

78. (1) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely:—

- master of a foreign-going ship;
- first mate of a foreign-going ship;
- second mate of a foreign-going ship;
- master of a home-trade ship;
- mate of a home-trade ship;
- first class engineer;
- second class engineer;

- engine driver of a sea-going ship;
- skipper of a fishing vessel;
- second hand of a fishing vessel;
- engineer of a fishing vessel;
- 5 engine driver of a fishing vessel.

(2) A certificate of competency granted for the grade of first or second class engineer or engine driver shall state whether it entitles the holder to act as engineer or engine driver of ships fitted with steam engines or of ships fitted with any other type of engines and the holder shall not be entitled to act as engineer or engine driver of a ship fitted with a type of engine not stated in the certificate.

(3) If it appears to the Central Government that certificates of competency for grades other than those referred to in sub-section (1) may be granted, it may, by notification in the Official Gazette, specify the other grades in respect of which certificates of competency may be granted.

(4) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

79. (1) The Central Government or a person duly authorised by it in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under section 78. Examinations for, and grant of, certificates.

(2) The Central Government or such authorised person shall grant to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires:

Provided that the Central Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

Certificates
of service of
naval
officers.

80. (1) A person who has attained the rank of lieutenant in the executive branch of the Indian Navy shall be entitled to a certificate of service as the master of a foreign-going ship without examination.

(2) A person who has attained the rank of lieutenant or sub-
lieutenant in the engineering branch of the Indian Navy shall be
entitled without examination, if a lieutenant to a certificate of
service as first class engineer, and if a sub-lieutenant to a certificate
of service as second class engineer.

(3) The Central Government may, by rules made under this Act
and subject to such conditions and restrictions as may be specified
therein, provide for the grant of certificates of service to officers of
the Indian Naval Reserve Forces who have attained the prescribed
ranks.

(4) A certificate of service shall differ in form from a certificate
of competency and shall contain the name and rank of the person
to whom it is delivered, and the Central Government shall deliver
a certificate of service to any person who proves himself to be
entitled thereto.

(5) Notwithstanding anything contained in this section, the
Central Government may, if it is of opinion that a person who is
entitled to a certificate of service under this section is not a fit person
to hold such certificate, refuse to grant or deliver such certificate
to him.

(6) The provisions of this Act (including the provisions relat-
ing to penalties) shall apply in relation to a certificate of service as
they apply in relation to a certificate of competency.

Form of
certificates.

81. Every certificate of competency granted under this Act shall
be in the prescribed form and shall be made in duplicate, and one
copy shall be delivered to the person entitled to the certificate, and
the other shall be kept and recorded in the prescribed manner.

Record of
orders affect-
ing certi-
ficates.

82. A note of all orders made for cancelling, suspending, altering
or otherwise affecting any certificate of competency, in pursuance of
the powers contained in this Act, shall be entered on the copy of the
certificate kept under section 81.

83. Whenever a person holding a certificate granted under this Act proves to the satisfaction of the Central Government that he has, without fault on his part, lost or been deprived of such certificate the Central Government shall, on payment of the prescribed fee, cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

Loss of
certificates

84. (1) The master of a foreign-going ship or the master of a home-trade ship of two hundred tons gross or more—

Production
of certifi-
cates of com-
petency to
shipping
master.

(a) on signing the agreement with his crew, shall produce to the shipping master before whom the same is signed, the certificates of competency which the master, mate, engineers and engine drivers of the ship are by this Act required to hold; and

(b) in the case of a running agreement, shall, also, before the second and every subsequent voyage, produce to the shipping master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(2) Upon the production of the certificates of competency, the shipping master shall, if the certificates are such as the master, mates and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(3) The master shall, before proceeding to sea, produce the certificate given to him by the shipping master to the customs collector.

(4) No customs collector shall clear any such ship outwards without the production of such certificate; and, if any ship attempts to go to sea without a clearance, the customs collector may detain her until the certificate is produced.

85. If it appears to the Central Government that the holder of a certificate granted under this Act has obtained it on false or erroneous information, it may cancel or suspend such certificate:

Power to
cancel or sus-
pend certifi-
cates obtain-
ed on false
or erroneous
information.

Provided that no order under this section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

Recognition
of certificates
of competency
or service grant-
ed in other
countries.

86. (1) If provision is made by the laws in force in any country other than India for the grant of certificates of competency or service similar to those referred to in this Act, and the Central Government is satisfied—

(a) that the conditions under which any such certificates are granted in that country require standards of competency or service not lower than those required for the grant under this Act of corresponding certificates; and

(b) that certificates granted under this Act are accepted in that country in lieu of the corresponding certificates granted under the laws of that country;

the Central Government may, by notification in the Official Gazette, declare that any certificate of competency or service granted under the laws in force in that country and specified in that notification, shall for the purposes of this Act be recognised as equivalent to the corresponding certificate of competency or service granted under this Act and specified in the notification.

(2) Whenever the provisions of this Act require that a person employed in any capacity on board any ship shall be the holder of a specified certificate of competency or service granted under this Act, any person employed in that capacity shall, if he is the holder of a certificate recognised under sub-section (1) as equivalent to the first-mentioned certificate or to a certificate of higher grade granted under this Act, and still in force, be deemed to be duly certificated under this Act.

25

Power to
make rules
as to grant,
cancellation
or suspension
of
certificates of
competency.

87. The Central Government may make rules to carry out the provisions of this Part relating to certificates of competency, and may, by such rules,—

(a) prescribe the manner in which the horse-power of the engines of ships may be calculated, and the methods by which such calculation may be made in respect of different types of engines;

(b) provide for the conduct of the examination of persons desirous of obtaining certificates of competency for the grades falling under section 78;

(c) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency for the grades falling under section 78;

(d) fix the fees to be paid by applicants for examination;

35

(e) prescribe the form of such certificates and the manner in which copies of certificates are to be kept and recorded;

(f) prescribe the circumstances or cases in which certificates of competency may be cancelled or suspended.

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PART VII

SEAMEN AND APPRENTICES

Classification of seamen and prescription of minimum manning scale

88. The Central Government may make rules for the classification of seamen other than ship's officers into different categories and for the prescription of the minimum manning scale of seamen of such categories for ships; and different scales may be prescribed for different classes of ships.

Power to
classify
seamen.

Shipping masters

89. It shall be the duty of shipping masters—

15 (a) to superintend and facilitate the engagement and discharge of seamen in the manner provided in this Act;

(b) to provide means for securing the presence on board at the proper times of the seamen who are so engaged;

20 (c) to facilitate the making of apprenticeship to the sea service;

(d) to hear and decide disputes under section 132 between a master, owner or agent of a ship and any of the crew of the ship;

25 (e) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act.

Duties of
shipping
masters.

90. (1) The Central Government may, by notification in the Official Gazette, fix the fees which shall be payable upon all engagements and discharges effected before a shipping master.

Fees to be
paid.

30 (2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and a shipping master, may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

35 (3) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping master, shall pay to the shipping master the whole of the fees hereby made payable

in respect of such engagement or discharge, and may, for the purpose of reimbursing himself in part, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding such sums as the Central Government may, by notification in the Official Gazette, fix in this behalf: 5'

Provided that, if in any case the sums which may be so deducted exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered 15 to be engagements and discharges of single seamen.

Apprenticeship to the sea service

Assistance
for apprenticeship
to sea service.

91. All shipping masters shall give to persons desirous of apprenticing boys not under fifteen years of age to the sea service or requiring apprentices not under that age for the sea service such 20 assistance as may be in their power, and may receive from those persons such fees as the Central Government may fix.

Special provisions
as to apprenticeship
to the sea service.

92. (1) The apprenticeship of any boy to the sea service shall be by contract in writing between the apprentice or on his behalf by his guardian, if the boy is a minor, and the master or owner of the 25 ship requiring the apprentice.

(2) Every such contract shall be executed in duplicate in the prescribed form and in accordance with the rules made by the Central Government in this behalf.

(3) Every such contract shall be executed in the presence of, 30 and shall be attested by the shipping master of the port, who shall, before the execution of the contract, satisfy himself—

(a) that the intended apprentice—

(i) understands the contents and provisions of the contract; 35

(ii) freely consents to be bound;

(iii) has attained the age of fifteen years; and

(iv) is in possession of a certificate to the effect that he is physically fit for sea service;

(b) if the intended apprentice is a minor, that his guardian's consent has been obtained to his being bound as an apprentice.

(4) Every such contract made in India and every assignment, alteration or cancellation thereof, and where the apprentice bound dies or deserts, the fact of the death or desertion shall be recorded in the manner specified in section 93.

93. For the purpose of the record—

Manner in which contract is to be recorded.

(a) the master or owner of the ship to whom an apprentice to the sea service is bound shall transmit the contract executed in duplicate within seven days of the execution thereof, to the shipping master, who shall record one copy and endorse on the other the fact that it has been recorded and redeliver it to the master or owner;

(b) the master or owner shall notify any assignment or cancellation of the contract and the death or desertion of the apprentice to the shipping master, within seven days of the occurrence, if it occurs within India, or, as soon as circumstances permit, if it occurs elsewhere.

94. (1) The master of a ship shall, before carrying an apprentice to sea from a port in India, cause the apprentice to appear before the shipping master before whom the crew are engaged, and shall produce to him the contract by which the apprentice is bound, and every assignment thereof.

Production of contracts to authorised person before voyage in ship.

(2) The name of the apprentice, with the date of the contract and of the assignments thereof, if any, and the names of the ports at which the same have been registered, shall be entered on the agreement with the crew.

Seamen's employment offices

95. (1) It shall be the business of the seamen's employment offices—

Business of seamen's employment offices.

(a) to regulate and control—

(i) the supply of such categories of seamen and for such class of ships as may be prescribed;

(ii) the recruitment of persons for employment as seamen and the retirement of seamen from such employment;

(iii) the promotion of seamen or changes of their categories;

(b) to maintain registers of seamen in respect of the categories prescribed under sub-clause (i) of clause (a);

(c) to perform such other duties relating to seamen and merchant ships as are, from time to time, committed to them by or under this Act.

(2) Where there is in existence at any port a seamen's employment office, then, notwithstanding anything to the contrary contained in any other provision of this Act, no person shall receive or accept to be entered on board any ship of the class prescribed under sub-section (1) any seaman of the categories prescribed under that sub-section, unless such seaman has been supplied by such seamen's employment office. 5 10

(3) The Central Government may make rules for the purpose of enabling seamen's employment offices effectively to exercise their powers under this Act; and in particular and, without prejudice to the generality of such power, such rules may provide for—

(a) consultation with respect to any specified matter by seamen's employment offices with such advisory boards or other authorities as the Central Government may think fit to constitute or specify in this behalf; 15

(b) the levy and collection of such fees as may be specified for any seamen's employment office for registering the name of any seaman in any register maintained by it; 20

(c) the issue of directions by the Central Government to any seamen's employment office with reference to the exercise of any of its powers;

(d) the supersession of any seamen's employment office which fails to comply with any such direction. 25

Supply or engagement of seamen in contravention of Act prohibited.

96. (1) A person shall not engage or supply a seaman to be entered on board any ship in India unless that person is the owner, master or mate of the ship, or is the agent of the owner or is *bona fide* the servant and in the constant employ of the owner, or is a director of a seamen's employment office, or a shipping master. 30

(2) A person shall not employ for the purpose of engaging or supplying a seaman to be entered on board any ship in India, any person, unless that person is the owner, master or mate of the ship, or is the agent of the owner or is *bona fide* the servant and in the constant employ of the owner, or is a director of a seamen's employment office, or a shipping master. 35

(3) A person shall not receive or accept to be entered on board any ship any seaman, if that person knows that the seaman has been engaged or supplied in contravention of this section or section 95. 40

97. A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, other than the fees authorised by this Act.

Receipt of remuneration from seamen for shipping them prohibited.

Engagement of seamen

98. (1) The Central Government may, by notification in the Official Gazette, direct that, with effect from such date as may be specified in the notification, seamen generally or any category of seamen in particular shall not be engaged or carried to sea to work in any capacity in any ship or in any class of ships so specified, unless each one of them possesses the prescribed qualifications.

Qualifications for, and medical examination of, seamen.

(2) Except as otherwise provided under the rules made under sub-section (3), no person shall engage or carry to sea any seaman to work in any capacity in any ship or in any class of ships specified in this behalf by the Central Government, unless the seaman is in possession of a certificate in the prescribed form granted by the prescribed authority to the effect that he is physically fit to be employed in that capacity.

(3) The Central Government may make rules for the purpose of giving effect to the provisions of this section; and, in particular, and, without prejudice to the generality of such power, any rules so made may provide for—

(a) the courses of training to be pursued, the vocational standards to be attained or the tests to be passed by seamen generally or by any class of seamen in particular;

(b) the standard of physical fitness required of seamen, different standards being laid down, if necessary, for different classes of seamen having regard to the age of the seamen to be examined or the nature of the duties to be performed by them;

(c) the nature of the medical examination of seamen, the authorities by which the examination shall be conducted, and the fees payable therefor;

(d) the form and contents of medical certificates and the period of their validity;

(e) the re-examination by such medical authority as may be specified of persons who have been refused medical certificates of physical fitness in the first instance and the fees payable for such re-examination;

(f) the circumstances in which, or the conditions subject to which, any seaman or class of seamen, or any ship or class of ships, may be exempted from the operation of sub-section (2).

Prohibition
of engage-
ment of sea-
men in
Indian port
without dis-
charge certi-
ficate.

99. No person shall engage or carry to sea any seaman under this Act in any ship, except a home-trade ship of less than two hundred 5 tons gross, from any port in India unless the seaman is in possession of a certificate of discharge or a continuous certificate of discharge issued under this Part.

Agreements
with crew.

100. The master of every Indian ship, except a home-trade ship of less than two hundred tons gross, shall enter into an agreement 10 (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from, any port in India.

Form and
contents of
the agree-
ment.

101. (1) An agreement with the crew shall be in the prescribed form, and shall be dated at the time of the first signature thereof, 15 and shall be signed by the master before any seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely:—

(a) the name of the ship or ships on board which the sea- 20 man undertakes to serve;

(b) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to 25 extend;

(c) the number and description of the crew of different categories in each department;

(d) the time at which each seaman is to be on board or to begin work; 30

(e) the capacity in which each seaman is to serve;

(f) the amount of wages which each seaman is to receive;

(g) a scale of the provisions which are to be furnished to each seaman, such scale being not less than the scale fixed by the Central Government and published in the Official 35 Gazette;

(h) a scale of warm clothing and a scale of additional provisions to be issued to each seaman during periods of employment in specified cold regions;

(i) any regulations as to conduct on board and as to fines or other lawful punishments for misconduct, which have been sanctioned by the Central Government as regulations proper to be adopted, and which the parties agree to adopt;

5 (j) payment of compensation for personal injury or death caused by accident arising out of and in the course of employment;

10 (k) where it is agreed that the services of any seaman shall end at any port not in India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in India as may be agreed upon, or a passage to some port in India free of charge or on such other terms as may be agreed upon;

15 (l) stipulations relating to such other matters as may be prescribed.

(3) The agreement shall provide that in the event of a dispute arising outside India between the master, owner or agent of a ship and a seaman in respect of any matter touching the agreement, such dispute shall be referred to the Indian consular officer whose decision
20 thereon shall be binding on the parties until the return of the ship to the port in India at which the seaman is to be discharged:

Provided that in the case of a ship other than an Indian ship, no such dispute shall be referred to the Indian consular officer if such reference is contrary to the rules of international law.

25 (4) The agreement with the crew shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of this Act) respecting the advance and allotment of wages and may contain any other stipulations which are not contrary to law.

30 102. If the master of a ship registered at a port outside India has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a seaman in any port in India, not being the holder of a certificate of discharge or a continuous certificate of discharge issued
35 in India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Engagement of seaman where agreement is made out of India.

103. (1) The following provisions shall have effect with respect to every agreement made in India with the crew of an Indian ship, namely:—

Special provisions with regard to agreements with crew of Indian ships.

40 (a) the agreement shall, subject to the provision of this Act as to substitutes, be signed by each seaman in the presence of a shipping master;

(b) the shipping master shall cause the agreement to be read over and explained to each seaman, in a language understood by him or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature;

5

(c) when the crew is first engaged, the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship;

(d) when a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion or other unforeseen cause, the engagement shall, if practicable, be made before a shipping master, and if not practicable, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute; and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.

(2) In the case of an agreement made in India with the crew of a foreign-going Indian ship, the following provisions shall have effect in addition to the provisions specified in sub-section (1), namely:—

(a) the agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements;

(b) a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest;

Provided that no such running agreement shall continue in force, if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port outside India to any other such port which is not on the direct route or a customary route to her port of destination in India;

(c) on every return to a port in India before the final termination of a running agreement, the master shall discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall
5 upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law;

10 (d) the master shall deliver the running agreement so endorsed to the shipping master, and the shipping master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

15 (3) In the case of an agreement made in India with the crew of a home-trade Indian ship of two hundred tons gross or more, the following provisions shall have effect in addition to the provisions specified in sub-section (1), namely:—

20 (a) the agreement shall not be for a period longer than six months, but if the period for which the agreement was entered into expires while the ship is not in an Indian port, the agreement shall continue in force until the ship is again in an Indian port:

25 Provided that, except with the consent in writing of the seaman concerned, the agreement shall not continue in force for more than three months after the expiration of the period for which it was entered into;

30 (b) an agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly.

104. (1) When a running agreement has been made with the crew of a foreign-going Indian ship and the ship arrives after the expiration of a period of six months from the date on which it was executed at a port of destination in India which is not the port at which
35 the crew have agreed to be discharged, the master may, with the previous sanction of the shipping master, renew the agreement with the crew, or may be required by the shipping master so to renew the agreement for the voyage from such port of destination to the port in India at which the crew have agreed to be discharged.

Renewal of running agreements in certain cases.

40 (2) If the master of the ship is required by the shipping master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government for the

subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

Changes in crew to be reported. 105. The master of every foreign-going Indian ship and of every home-trade Indian ship of two hundred tons gross or more, the crew of which has been engaged before a shipping master, shall, before finally leaving the port where the engagement took place, sign and send to the nearest shipping master a full and accurate statement in the prescribed form, of every change which has taken place in his crew, and that statement shall be admissible in evidence.

Certificate as to agreement with crew. 106. (1) In the case of a foreign-going Indian ship or a home-trade Indian ship of two hundred tons gross or more, on the due execution of an agreement with the crew in accordance with this Act, and also when, in the case of a foreign-going Indian ship, the agreement is a running agreement, on compliance by the master before the second any every subsequent voyage made after the first commencement of the agreement with the provisions of this Act respecting that agreement, the shipping master shall grant the master of the ship a certificate to that effect.

(2) The master of every such ship shall, before proceeding to sea, produce that certificate to the customs collector whose duty it is to grant a port clearance.

(3) No customs collector shall clear any such ship outwards without the production of such certificate, and, if any such ship attempts to go to sea without a clearance, the customs collector may detain her until such certificate as aforesaid is produced.

(4) The master of every such ship shall, within forty-eight hours after the ship's arrival at the port in India at which the crew is to be discharged, deliver such agreement to a shipping master at the port; and such shipping master shall thereupon give to the master a certificate of such delivery; and no customs collector shall clear any such ship inwards without the production of such certificate.

Copy of agreement to be made accessible to the crew. 107 The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement and, if necessary, a certified translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

108. Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of--

Alteration in agreement with the crew.

(a) all the persons interested in such erasure, interlineation or alteration by the written attestation, if made in India, of some shipping master, or customs collector; or

(b) an Indian consular officer, if made out of India.

10

Employment of young persons

109. No person under fifteen years of age shall be engaged or carried to sea to work in any capacity in any ship, except--

Employment of children.

(a) in a school ship, or training ship, in accordance with the prescribed conditions; or

15 (b) in a ship in which all persons employed are members of one family; or

(c) in a home-trade ship of less than two hundred tons gross ***; or

20 (d) where such person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative.

110. (1) Save as otherwise provided in sub-sections (2) and (3), no young person shall be engaged or carried to sea to work as trimmer or stoker in any ship.

Engagement of young persons as trimmers or stokers.

25 (2) Sub-section (1) shall not apply--

(a) to any work of trimming or stoking done by a young person in a school ship or training ship in accordance with the prescribed conditions; or

30 (b) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam; or

35 (c) to the engagement or carrying to sea of a person over sixteen years of age to work as a trimmer or stoker on a coasting ship, provided he is employed in accordance with the prescribed conditions.

(3) Where in any port a trimmer or stoker is required for any ship other than a coasting ship, and no person over eighteen years of age is available, two young persons over sixteen years of age may be engaged and carried to sea to do the work which would otherwise have been done by one person over eighteen years of age. 5

(4) There shall be included in every agreement with the crew in ships to which this section applies a short summary of the provisions of this section.

Medical examination of young persons.

111. (i) Save as otherwise provided in sub-section (2), no young person shall be engaged or carried to sea to work in any capacity 10 in any ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.

(2) Sub-section (1) shall not apply,—

(a) to the employment of a young person in a ship in 15 which all persons employed are members of one family; or

(b) where the shipping master, on the ground of urgency, has authorised a young person to be engaged and carried to sea, without the certificate required by sub-section (1) being delivered to the master, and the young person is not employed 20 beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (1).

(3) A certificate of physical fitness required under this section shall remain in force for one year only from the date on which it is granted. 25

Maintenance of list or register of young persons in a ship.

112. There shall be included in every agreement with the crew of every Indian ship and every other ship which engages young persons in India, a list of young persons who are members of the crew, together with particulars of the dates of their birth, and, in the case of any such ship where there is no agreement, the master 30 shall keep a register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

Power to make rules respecting employment of young persons.

113. (!) The Central Government may make rules prescribing—

(a) the conditions of employment of young persons in any 35 capacity in school ships and training ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out;

(b) the conditions of employment of young persons as trimmers or stokers in coasting ships;

(c) the authorities whose certificates of physical fitness shall be accepted for the purposes of section 111; and

5 (d) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

(2) Rules under clause (b) of sub-section (1) shall be made after consultation with such organisations in India as the Central Government may consider to be most representative of the employers
10 of seamen and of seamen.

Engagement of seamen by masters of ships other than Indian ships

114 (1) When the master of a ship other than an Indian ship
* engages a seaman at any port in India to proceed to any
port outside India, he shall enter into an agreement with such seaman,
15 and the agreement shall be made before a shipping master in the
manner provided by this Act for the making of agreements in the
case of foreign-going Indian ships.

Engagements between seamen and masters of ships other than Indian ships.

(2) All the provisions of this Act respecting the form of such agreements and the stipulations to be contained in them and the
2, making and signing of the same, shall be applicable to the engagement of such seaman.

(3) The master of a ship other than an Indian ship shall give to the shipping master a bond with the security of some approved person resident in India for such amount as may be fixed by the
25 Central Government in respect of each seaman engaged by him at any port in India and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Central Government of all expenses which may be incurred by it in respect of any such seaman who is discharged or left behind at any port out
30 of India and becomes distressed and is relieved under the provisions of this Act:

Provided that the shipping master may waive the execution of a bond under this section where the owner of the ship has an agent at any port in India and such agent accepts liability in respect of all
35 matters for which the master of the ship would be liable if he were to execute a bond under this section or may accept from the agent such security as may be approved by the Central Government.

(4) The fees fixed under section 90 shall be payable in respect of every such engagement, and deductions from the wages of seamen
40 so engaged may be made to the extent and in the manner allowed under the said section 90.

Power to prohibit engagement of persons as seamen.

115. The Central Government or any officer authorised by it in this behalf, if satisfied that in the national interest or in the interests of seamen generally it is necessary so to do, may, by order in writing, prohibit the owner, master or agent of any ship other than an Indian ship specified in the order from engaging in India or in any specified part of India, any person to serve as a seaman on such ship.

Engagement of seamen outside India for Indian ships.

116. With respect to the engagement of seamen outside India, the following provisions shall have effect:—

When the master of an Indian ship engages a seaman at any port outside India, the provisions of this Act respecting agreements with the crew made in India shall apply subject to the following modifications:—

(a) at any such port having an Indian consular officer, the master shall, before carrying the seaman to sea, procure the sanction of the consular officer, and shall, if not contrary to any law in force in that port, engage the seaman before that officer;

(b) the master shall request the Indian consular officer to endorse upon the agreement an attestation to the effect that it has been signed in his presence and otherwise made as required by this Act, and that it has his sanction, and if the attestation is not made, the burden of proving that the engagement was made as required by this Act shall lie upon the master.

Power to board ships and muster seamen.

117. For the purpose of preventing seamen from being taken on board any ship at any port in India contrary to the provisions of this Act any shipping master or deputy or assistant shipping master or any director, deputy director or assistant director of the seamen's employment office, may enter at any time on board any such ship upon which he has reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein.

Discharge of seamen

Discharge before shipping master.

118. (1) When a seaman serving in a foreign-going ship is, on the termination of his engagement, discharged in India, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping master.

(2) The provisions of sub-section (1) shall apply in relation to the discharge of seamen serving in a home-trade Indian ship of two hundred tons gross or more as they apply in relation to the discharge of seamen serving in a foreign-going ship:

5 Provided that this sub-section shall not apply where a seaman is discharged from a ship under an agreement made in accordance with section 103 for service in two or more ships, for the purpose of being engaged in another ship to which the agreement relates.

(3) If the master, owner or agent of a home-trade ship, other than
10 a ship to which the last preceding sub-section applies, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

119. (1) The master shall sign and give to a seaman discharged
from his ship in India, either on his discharge or on payment of his
15 wages, a certificate of his discharge in the prescribed form specifying the period of his service and the time and place of his discharge. Certificate of discharge.

(2) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer.

20 120. (1) When a seaman is discharged from a ship in India, the
master shall furnish to the shipping master before whom the dis-
charge is made a report in the prescribed form stating— Certificate as to work of seamen.

(a) the quality of the work of the seaman; or

(b) whether the seaman has fulfilled his obligations under
25 the agreement with the crew; or

(c) that he declines to express an opinion on those particulars;

and the shipping master shall, if the seaman so desires, give to him or endorse on his certificate of discharge a copy of such report.

30 (2) A seaman who is entitled to a certificate of discharge under section 119 may, if he so desires, be granted by the master, in lieu of the certificate referred to in sub-section (1) of the said section or the report referred to in sub-section (1) of this section, a continuous discharge certificate specifying the period of his service together
35 with an endorsement stating—

(a) the quality of the work of the seaman; or

(b) whether the seaman has fulfilled his obligations under the agreement with the crew; or

(c) that he declines to express an opinion on those particulars;

and the master shall thereupon sign and give such continuous discharge certificate notwithstanding anything to the contrary contained in sub-section (1). 5

(3) If the master states that he declines to express an opinion on the particulars mentioned in clauses (a) and (b) of sub-section (1) or sub-section (2), he shall enter in the official log book his reasons for so declining. 10

Discharge
and leaving
behind of
seamen by
masters of
Indian ships.

121. (1) The master of an Indian ship shall not—

(a) discharge a seaman before the expiration of the period for which he was engaged, unless the seaman consents to his discharge; or 15

(b) except in circumstances beyond his control, leave a seaman or apprentice behind;

without the authority of the officer specified in this behalf by the Central Government and the officer aforesaid shall certify on the agreement with the crew that he has granted such authority, and also 20 the reason for the seaman being discharged or the seaman or apprentice being left behind.

(2) The officer aforesaid to whom application is made for authority in terms of sub-section (1), shall investigate the grounds on which the seaman is to be discharged or the seaman or apprentice 25 left behind and may in his discretion grant or refuse to grant such authority:

Provided that he shall not refuse to grant his authority if he is satisfied that the seaman has without reasonable cause—

(a) failed or refused to join his ship or to proceed to sea 30 therein; or

(b) been absent from his ship without leave, either at the commencement or during the progress of a voyage for a period of more than forty-eight hours.

(3) The officer aforesaid shall keep a record of all seamen or 35 apprentices discharged or left behind with his authority; and whenever any charge is made against a seaman or apprentice under section 191, the fact that no such authority is so recorded shall be *prima facie* evidence that it was not granted.

122 (1) If a seaman or apprentice is left behind, the master shall enter in the official log book a statement of the amount due to the seaman or apprentice in respect of wages at the time when he was left behind and of all property left on board by him, and shall take such property into his charge.

Wages and other property of seaman or apprentice left behind.

(2) Within forty-eight hours after the arrival of the ship at the port in India at which the voyage terminates, the master shall deliver to the shipping master—

(a) a statement of the amount due to the seaman or apprentice in respect of wages, and of all property left on board by him; and

(b) a statement, with full particulars, of any expenses that may have been caused to the master or owner of the ship by the absence of the seaman or apprentice, where the absence is due to a contravention by the seaman or apprentice of section 191;

and, if required by the shipping master to do so, shall furnish such vouchers as are reasonably required to verify the statements.

(3) The master shall at the time when he delivers the statements referred to in sub-section (2) to the shipping master also deliver to him the amount due to the seaman or apprentice in respect of wages and the property that was left on board by him, and the shipping master shall give to the master a receipt therefor in the prescribed form.

(4) The master shall be entitled to be reimbursed out of the wages or property referred to in clause (a) of sub-section (2) such expenses shown in the statement referred to in clause (b) of that sub-section as appear to the shipping master to be properly chargeable.

123. (1) When the service of a seaman or apprentice terminates without the consent of the said seaman or apprentice at a port outside India, and before the expiration of the period for which the seaman was engaged or the apprentice was bound, the master or owner of the ship shall, in addition to any other relative obligation imposed on either of them by this Act, make adequate provision for the maintenance of the seaman or apprentice according to his rank or rating, and for the return of that seaman or apprentice to a proper return port.

Repatriation of seamen on termination of service at foreign port.

(2) If the master or owner fails without reasonable cause to comply with sub-section (1), the expenses of maintenance and of the journey to the proper return port shall, if defrayed by the seaman

or apprentice, be recoverable as wages due to him, and if defrayed by an Indian consular officer, be regarded as expenses falling within the provisions of sub-sections (3) and (4) of section 161.

Explanation.—Inability to provide the said expenses shall not, for the purposes of this sub-section, be regarded as reasonable cause. 5

Discharge of
seamen on
change of
ownership. 124. (1) If an Indian ship is transferred or disposed of while she is at or on a voyage to any port outside India, every seaman or apprentice belonging to that ship shall be discharged at that port, unless he consents in writing in the presence of the Indian consular officer to complete the voyage in the ship if continued. 10

(2) If a seaman or apprentice is discharged from an Indian ship in terms of sub-section (1), the provisions of section 123 shall apply as if the service of the seaman or apprentice had terminated without his consent and before the expiration of the period for which the seaman was engaged or the apprentice was bound. 15

(3) Every seaman or apprentice discharged in terms of sub-section (1) shall, if the voyage for which he was engaged is not continued, be entitled to the wages to which he would have been entitled if his service had been wrongfully terminated by the owner before the expiration of the period for which the seaman was engaged or the apprentice was bound. 20

Payment of wages

Master to deliver
account of
wages. 125. (1) The master of every ship shall, before paying off or discharging a seaman under this Act, deliver at the time and in the manner provided by this Act a full and true account in the 25 form prescribed of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping master not less than twenty-four hours before the discharge 30 or payment off.

Disrating of
seamen. 126. (1) Where the master of a ship disrates a seaman, he shall forthwith enter or cause to be entered in the official log book a statement of the disrating, and furnish the seaman with a copy of the entry; and any reduction of wages consequent on the disrating 35 shall not take effect until the entry has been so made and the copy so furnished.

(2) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections 125 and 127. 40

127. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after such delivery.

Deductions
from wages
of seamen.

5 (2) The master shall during the voyage enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent
10 authority of any complaint or question relating to that payment.

128. (1) Where a seaman is discharged in India before a shipping master, he shall receive his wages through, or in the presence of, the shipping master unless a competent court otherwise directs.

Payment of
wages before
shipping
master.

(2) If the master or owner of a home-trade ship of less than
15 two hundred tons gross so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship, or from a home-trade ship of two hundred tons gross or more.

129. (1) The master, owner or agent of every ship shall pay to
20 every seaman his wages within four days after the seaman's discharge, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

Time of
payment of
wages.

(2) If a master, owner or agent fails without reasonable cause
25 to make payment at that time, he shall pay to the seaman such sum not exceeding the amount of two days' pay for each of the days commencing from the day of discharge during which payment is delayed as the shipping master may in each case decide, but the sum so payable shall not exceed ten days' double pay.

30 (3) Any sum payable under this section may be recovered as wages.

130. (1) Where a seaman is discharged and the settlement of his wages completed before a shipping master, the seaman shall sign in the presence of the shipping master a release in the form prescribed
35 of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master, owner or agent of the ship and attested by the shipping master.

Settlement
of wages.

(2) The release so signed and attested shall be retained by the shipping master and shall operate as a mutual discharge and settle-
40 ment of all demands between the parties thereto in respect of the past voyage or engagement but shall not debar a claim to compensation for personal injury caused by accident arising out of and in the course of employment.

(3) A copy of the release, certified under the hand of the shipping master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

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(4) No payment, receipt or settlement of the wages of a seaman made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim in respect of such wages.

(5) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to the master a statement of the whole amount so paid, and the statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

(6) Notwithstanding anything contained in the preceding sub-sections a seaman may except from the release signed by him any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release; and the release shall not operate as a discharge and settlement of any claim or demand so noted, nor shall sub-section (4) apply to any payment, receipt or settlement made with respect to any such claim or demand.

Master to
give facilities
to seaman
for remitting
wages.

131. Where a seaman expresses to the master of the ship his desire to have facilities afforded to him for remitting any part of the balance of the wages due to him to a savings bank or to a near relative, the master shall give to the seaman all reasonable facilities for so doing so far as regards so much of the balance as is within the limits, if any, specified in this behalf by the Central Government, but shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port or otherwise than conditionally on the seaman going to sea in the ship.

Decision of
questions by
shipping
masters.

132. (1) Where under the agreement with the crew any dispute arises at any port in India between the master, owner or agent of a ship and any of the crew of the ship, it shall be submitted to the shipping master,—

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(a) where the amount in dispute does not exceed three hundred rupees, at the instance of either party to the dispute;

(b) in any other case, if both parties to the dispute agree in writing to submit the dispute to the shipping master.

(2) The shipping master shall hear and decide the dispute so submitted and an award made by him upon the submission shall be

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conclusive as to the rights of the parties, and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

(3) An award made by a shipping master under this section may be enforced by a magistrate in the same manner as an order for the payment of wages made by such magistrate under this Act.

10 of 1940.

(4) Nothing in the Arbitration Act, 1940, shall apply to any matter submitted to a shipping master for decision under this section.

10 133. In any proceedings under this Act before a shipping master relating to the wages, claims or discharge of a seaman, the shipping master may require the owner, master or agent or any mate or other member of the crew to produce any log books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

Power of shipping master to require production of ship's Papers.

134. Where a seaman or apprentice has agreed with the master of a ship for payment of his wages in Indian or other currency, any payment of, or on account of, his wages, if made in any currency other than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange * * * for the time being current at the place where the payment is made.

Rule as to payment to seamen in foreign currency.

Advance and allotment of wages

25 135. (1) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

Advance of wages.

30 (2) Save as aforesaid, an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in India shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and no person shall have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

40 (3) No seaman, who has been lawfully engaged and has received under his agreement an advance payment, wilfully or through misconduct, shall fail to attend his ship or desert therefrom before the payment becomes really due to him.

(4) Where it is shown to the satisfaction of a shipping master that a seaman lawfully engaged has wilfully or through misconduct failed to attend his ship, the shipping master shall report the matter to the Director-General who may direct that any of the seaman's certificates of discharge referred to in sections 119 and 120 shall be withheld for such period as he may think fit; and while a seaman's certificate of discharge is so withheld, the Director-General or any other person having the custody of the necessary documents may, notwithstanding anything in this Act, refuse to furnish copies of any such certificate or certified extracts therefrom.

Allotment
notes respect-
ing seamen's
wages.

126. (1) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding three-fourths) of the amount of the monthly wages payable to him in favour of any such member of his family or any such relative or for any such purpose approved in this behalf by the Central Government by general or special order, as may be specified in the note.

(2) Every shipping master or other officer before whom the seaman is engaged shall, after the seaman has signed the agreement, inquire from the seaman whether he requires such a stipulation for the allotment of his wages by means of an allotment note.

(3) Whenever a seaman requires such a stipulation, the stipulation shall be inserted in the agreement of the crew, and such stipulation shall be deemed to have been agreed to by the master.

(4) An allotment note shall be in the prescribed form and shall be signed by the owner, master or agent of the ship and by the seaman.

Commence-
ment and
payment of
sums
allotted.

137. (1) A payment under an allotment note shall begin at the expiry of one month from the date of the agreement, and shall be made at the expiration of every subsequent month after the first month, and shall be made only in respect of the wages earned before the date of payment.

(2) The owner, master or agent who has authorised the drawing of an allotment note shall pay to the shipping master on demand the sums due under the note, and, if he fails to do so, the shipping master may sue for and recover the same with costs:

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the court trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the court either by the official statement of the change in the crew caused by his absence made and signed by the master

as by this Act is required, or by a certified copy of some entry in the official log book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court may
5 consider sufficient.

(3) The shipping master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(4) All such receipts and payments shall be entered in a book to
10 be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping master.

(5) The said book shall at all reasonable times be open to the inspection of the parties concerned.

Rights of seamen in respect of wages

15 **138.** A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens. Right to wages and provisions.

139. (1) A seaman shall not by any agreement forfeit his lien on
20 the ship or be deprived of any remedy for the recovery of his wages to which, in the absence of the agreement, he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement
25 inconsistent with any provisions of this Act shall be void. Right to recover wages and salvage not to be forfeited.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be
30 rendered by that ship to any other ship.

140. (1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and con-
35 ditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned, but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages. Wages not to depend on freight.

40 (2) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages

dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage.

Wages on termination of service by wreck, illness, etc.

141. (1) Where the service of any seaman engaged under this Act terminates before the date contemplated in the agreement by reason of the wreck, loss or abandonment of the ship or by reason of his being left on shore at any place outside India under a certificate granted under this Act of his unfitness or inability to proceed on the voyage, the seaman shall be entitled to receive—

(a) in the case of wreck, loss or abandonment of the ship— 10

(i) wages at the rate to which he was entitled at the date of termination of his service for the period from the date his service is so terminated until he is returned to and arrives at a proper return port:

Provided that the period for which he shall be entitled to receive wages shall be not less than one month; and

(ii) compensation for the loss of his effects—

(a) in the case of a seaman employed on a home-trade ship, of not less than one month's wages; and

(b) in the case of a seaman employed on a foreign-going ship, of not less than three months' wages;

(b) in the case of unfitness or inability to proceed on the voyage, wages for the period from the date his service is terminated until he is returned to and arrives at a proper return port.

(2) A seaman shall not be entitled to receive wages under sub-clause (i) of clause (a) of sub-section (1) in respect of any period during which—

(a) he was, or could have been, suitably employed; or

(b) through negligence he failed to apply to the proper authority for relief as a distressed or destitute seaman. 30

(3) Any amount payable by way of compensation under sub-clause (ii) of clause (a) of sub-section (1) shall be deposited with the shipping master at the port of engagement in India for payment to the seaman, or, in the case of a deceased seaman, to his legal heirs.

Wages not to accrue during absence without leave, refusal to work or imprisonment.

142. (1) A seaman or apprentice shall not be entitled to wages— 35

(a) for any period during which he is absent without leave from his ship or from his duty; or

(b) for any period during which he unlawfully refuses or neglects to work when required; or

(c) unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned. 40

(2) A seaman or apprentice shall not be disentitled to claim wages for any period during which he has not performed his duty if he proves that he was incapable of doing so by reason of illness, hurt or injury, unless it be proved that—

5 (a) his illness, hurt or injury was caused by his own wilful act or default or his own misbehaviour; or

(b) his illness was contracted or his hurt or injury was sustained at a proper return port and was not attributable to his employment; or

10 (c) he has unreasonably refused to undergo medical or surgical treatment for his illness, hurt or injury involving no appreciable risk to his life.

* * * * *

143. (1) If a seaman having signed an agreement is discharged, otherwise than in accordance with the terms thereof, without fault on his part justifying the discharge and without his consent, he shall be entitled to receive from the master, owner or agent, in addition to any wages he may have earned, as due compensation for the damage caused to him by the discharge, such sum as the shipping master may fix having regard to the circumstances relating to the discharge: Compensation to seamen for premature discharge.

Provided that the compensation so payable shall not exceed—

(a) in the case of a seaman who has been discharged before the commencement of a voyage, one month's wages; and

25 (b) in the case of a seaman who has been discharged after the commencement of a voyage, three months' wages.

(2) Any compensation payable under this section may be recovered as wages.

144. (1) As respects wages due or accruing to a seaman or apprentice— Restriction on sale of and charge upon wages.

30 (a) they shall not be subject to attachment by order of any court;

(b) an assignment thereof made prior to the accruing thereof shall not bind the person making the same;

(c) a power-of-attorney or authority for the receipt thereof shall not be irrevocable;

(d) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous assignment of those wages or any attachment thereof or encumbrance thereon. 5

(2) The provisions of clauses (b) and (c) of sub-section (1) shall not apply to so much of the wages of a seaman as have been or are hereafter assigned by way of contribution to any fund or scheme approved in this behalf by the Central Government, the main purpose of which is the provision for seamen of health or social insurance benefits and the provisions of clauses (a) and (d) of sub-section (1) shall not apply to anything done or to be done for giving effect to such an assignment. 10

(3) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes. 15

Mode of recovering wages

Summary proceedings for wages.

145. (1) A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him become payable, apply to any magistrate exercising jurisdiction in or near the place at which his service has terminated or, at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the magistrate shall try the case in a summary way and the order made by the magistrate in the matter shall be final. 20 25

(2) An application under sub-section (1) may also be made by any officer authorised by the Central Government in this behalf by general or special order.

Restrictions on suits for wages.

146. A proceeding for the recovery of wages due to a seaman or apprentice shall not be instituted by or on behalf of any seaman or apprentice in any civil court except where— 30

(a) the owner of the ship has been declared insolvent;

(b) the ship is under arrest or sold by the authority of any court;

(c) a magistrate refers a claim to the court.

147. Where a seaman is engaged for a voyage which is to terminate in India, he shall not be entitled to sue in any court outside India for wages unless he is discharged with such sanction as is required by this Act, and with the written consent of the master, or proves such ill-usage on the part, or by the authority, of the master, as to warrant a reasonable apprehension of danger to his life if he were to remain on board.

Wages not recoverable outside India in certain

148. (1) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

Remedies of master for wages, disbursements, etc.

(2) The master of a ship and every person lawfully acting as master of a ship by reason of the decease or incapacity from illness of the master of the ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

(3) If in any proceeding in any court touching the claim of a master in respect of such wages, disbursements or liabilities any set-off is claimed or any counterclaim is made, the court may enter into, and adjudicate upon, all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding and may direct payment of any balance found to be due.

Power of courts to rescind contracts

149. Where a proceeding is instituted in any court in relation to any dispute between master, owner or agent of a ship and a seaman or apprentice, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if, having regard to all the circumstances of the case, it thinks it just to do so, may rescind any contract between the master, owner or agent and the seaman or apprentice, upon such terms as the court may think just, and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

Power of court to rescind contract between master, owner or agent and seaman or apprentice.

Disputes between seamen and employers

150. (1) Where the Central Government is of opinion that any dispute between seamen or any class of seamen or of any union of seamen and the owners of ships in which such seamen are employed or are likely to be employed exists or is apprehended and such dispute relates to any matter connected with or incidental to the

Power to refer disputes between seamen and their employers to tribunals.

employment of the seamen, the Central Government may, by notification in the Official Gazette, constitute a tribunal consisting of one or more persons, and refer the dispute to the tribunal for adjudication.

(2) The tribunal so constituted shall have power to regulate its own procedure and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:— 5 of 1908.

(a) enforcing the attendance of any person and examining him on oath; 10

(b) compelling the production of documents;

(c) issuing commissions for the examination of witnesses;

(d) any other matter which may be prescribed;

and any proceeding before the tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. 15 45 o. 1860.

(3) The tribunal shall dispose of the reference expeditiously and shall, as soon as practicable on the conclusion of the proceedings, submit its award to the Central Government.

(4) On receipt of the award, the Central Government shall cause it to be published and the award shall become enforceable on the expiry of thirty days from the date of such publication: 20

Provided that where the Central Government is of * opinion that it will be inexpedient on public grounds to give effect to the award or any part of it, it may before the expiry of the said period of thirty days by order in the Official Gazette either reject the award or modify it, and where the Central Government does so, the award shall not become enforceable or shall become enforceable subject to the modifications, as the case may be. 25

(5) An award which has become enforceable under this section shall be binding on— 30

(a) all parties to the dispute;

(b) where any party to the dispute is the owner of the ship, his heirs, successors, or assigns.

(6) Any money due to a seaman from the owner of a ship under an award may be recovered as wages. 35

(7) Nothing contained in the Industrial Disputes Act, 1947, shall apply to any dispute between seamen or any class of seamen or any union of seamen and the owners of ships in which such seamen are employed or are likely to be employed. 14 of 1947. 40

151. During the pendency of proceedings under section 150,—

Conditions of service, etc., to remain unchanged during pendency of proceedings before tribunal.

(a) no seamen or class of seamen or union of seamen shall go or remain on strike or otherwise act in a manner prejudicial to the normal operation of the ships in which the seamen are employed or are likely to be employed; and

(b) no owner of a ship shall—

(i) alter to the prejudice of the seamen concerned in the dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

(ii) discharge or punish any seaman in respect of any matter connected with the dispute.

Property of deceased seamen and apprentices

152. (1) If any seaman or apprentice engaged on any ship, the voyage of which is to terminate in India, dies during that voyage, the master of the ship shall report the death to the next-of-kin of the seaman or apprentice and to the shipping master at his port of engagement and shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

Master to take charge of the effects of deceased seamen.

(2) The master shall thereupon enter in the official log book the following particulars, namely:—

(a) a statement of the amount of money and a detailed description of the other effects;

(b) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(3) The said money, balance of wages and other effects are in this Act referred to as the property of the seaman or apprentice.

153. (1) If any seaman or apprentice engaged on any ship, the voyage of which is to terminate in India, dies during that voyage and the ship before coming to a port in India touches and remains for forty-eight hours at some port elsewhere, the master shall report the case to the Indian consular officer at such port and shall give to the officer any information he requires as to the destination of the ship and probable length of the voyage.

Dealing with and account of property of seamen who die during voyage.

(2) The Indian consular officer may, if he thinks it expedient, require the property of the seaman or apprentice to be delivered and paid to him and shall thereupon give to the master a receipt therefor

and endorse under his hand upon the agreement with the crew such particulars with respect thereto as the Central Government may require.

(3) The receipt shall be produced by the master to the shipping master within forty-eight hours after his arrival at his port of destination in India.

(4) Where a seaman or apprentice dies as aforesaid and the ship proceeds at once to a port in India without touching and remaining as aforesaid at a port elsewhere or the Indian consular officer does not require the delivery and payment of the property as aforesaid, the master shall, within forty-eight hours after his arrival at his port of destination in India, pay and deliver the property to the shipping master at that port.

(5) A deduction claimed by the master in such account shall not be allowed unless verified by an entry in the official log book, and also by such other vouchers, if any, as may be reasonably required by the shipping master.

(6) A shipping master in India shall grant to a master upon due compliance with such provisions of this section as relate to acts to be done at the port of destination a certificate to that effect.

Master to pay and deliver property of deceased seamen.

154. (1) If the master of a ship fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log book the proper entries relating thereto, or to the payment or delivery of such property, he shall be accountable for such property to the shipping master as aforesaid, and shall pay and deliver the same accordingly.

(2) The property may be recovered in the same court and manner in which the wages of seamen may be recovered under this Act.

Property of deceased seaman left abroad but not on board ship.

155. If any seaman or apprentice on an Indian ship, or engaged in India on any other ship, the voyage of which is to terminate in India, dies at any place outside India leaving any money or effects not on board the ship, the Indian consular officer at or near the place shall claim and take charge of such money and other effects (hereinafter referred to as the property of a deceased seaman or apprentice).

Dealing with property of deceased seamen.

156. (1) An Indian consular officer or a shipping master to whom the effects of a deceased seaman or apprentice are delivered or who takes charge of such effects under this Act may, if he thinks fit, sell

the effects, and the proceeds of any such sale shall be deemed to form part of the property of the deceased seaman or apprentice.

(2) Before selling any valuables comprised in the said effects, such officer or shipping master shall endeavour to ascertain the wishes of the next-of-kin of the deceased seaman or apprentice as to the disposal of such valuables and shall, if practicable and lawful, comply with such wishes.

(3) An Indian consular officer to whom any property of a deceased seaman or apprentice is delivered or who takes charge of any such property under this Act shall remit the property to the shipping master at the port of engagement of the deceased seaman or apprentice in such manner and shall render such accounts in respect thereof as may be prescribed.

157. (1) Where a seaman or apprentice is lost with the ship to which he belongs, the Central Government or such officer as the Central Government may appoint in this behalf may recover the wages and the compensation due to him from the owner, master or agent of the ship in the same court and in the same manner in which seamen's wages are recoverable, and shall deal with those wages in the same manner as with the wages and compensation due to other deceased seamen or apprentices under this Act.

Recovery of wages, etc. of seamen lost with their ship.

(2) In any proceeding for the recovery of the wages and compensation, if it is shown by some official records or by other evidence that the ship has, twelve months or upwards before the institution of the proceeding, left any port, she shall, unless it is shown that she has been heard of within twelve months after the departure, be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the court hearing the case may think probable.

158. If a seaman or apprentice dies in India and is at the time of his death entitled to claim from the master or owner of the ship in which he has served any effects or unpaid wages, the master, owner or agent shall pay and deliver or account for such property to the shipping master at the port where the seaman or apprentice was discharged or was to have been discharged or to such other officer as the Central Government may direct.

Property of seamen dying in India.

159. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping master, the shipping master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may--

Payment over of property of deceased seamen by shipping master.

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping master

to be entitled thereto, and the said shipping master shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Indian Succession Act, 1925, to be taken out, and thereupon pay and deliver the residue to the legal representatives of the deceased. 5 39 of 1925-

Disposal of
unclaimed
property
of deceased
seamen.

160. (1) Where no claim to the property of a deceased seaman or apprentice received by a shipping master is substantiated within one year from the receipt thereof by such shipping master, the shipping master shall cause such property to be sold and pay the proceeds of the sale into the public account of India. 10

(2) If, after the proceeds of the sale having been so paid, any claim is made thereto, then, if the claim is established to the satisfaction of the shipping master, the amount or so much thereof as shall appear to him to be due to the claimant, shall be paid to him, and if the claim is not so established, the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just: 15 20

Provided that, after the expiration of six years from the receipt of such property by the shipping master, no claim to such property shall be entertained without the sanction of the Central Government.

Distressed seamen

Relief and
maintenance
of distressed
seamen.

161. (1) The Indian consular officer at or near the place where a seaman is in distress shall, on application being made to him by the distressed seaman, provide in accordance with the rules made under this Act for the return of that seaman to a proper return port, and also for the said seaman's necessary clothing and maintenance until his arrival at such port. 25 30

(2) A distressed seaman shall not have any right to be maintained or sent to a proper return port except to the extent and on the conditions provided for in the rules.

(3) All repatriation expenses, other than excepted expenses, incurred by or on behalf of the Central Government in accordance with the provisions of this Act shall constitute a debt due to the Central Government for which the owner or agent of the ship to which the seaman in respect of whom they were incurred belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall be liable; and the owner or agent shall not be entitled to recover from the seaman any amount 35 40

paid by him to the Central Government in settlement or part settlement of such debt.

(4) All excepted expenses incurred by or on behalf of the Central Government in accordance with the provisions of this Act shall
5 constitute a debt due to the Central Government for which the seaman in respect of whom they were incurred and the owner or agent of the ship to which that seaman belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall be jointly and severally¹ liable; and the owner or
10 agent shall be entitled to recover from the seaman any amount paid by him to the Central Government in settlement or part settlement of such debt, and may apply to the satisfaction of his claim so much as may be necessary, of any wages due to the seaman.

15 (5) All excepted expenses incurred in accordance with the provisions of this Act in respect of any distressed seaman by the owner or agent of the ship to which he belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall constitute a debt due to the owner or agent for
20 which the seaman shall be liable; and the owner or agent may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seaman; but he shall not be entitled to recover from the seaman any repatriation expenses other than excepted expenses.

25 (6) In any proceedings for the recovery of any expenses which in terms of sub-section (3) or sub-section (4) are a debt due to the Central Government, the production of an account of the expenses and proof of payment thereof by or on behalf of or under the direction of the Central Government shall be *prima facie* evidence
30 that the expenses were incurred in accordance with the provisions of this Act by or on behalf of the Central Government.

(7) Any debt which may be due to the Central Government under this section may be recovered by any officer authorised by it in writing in this behalf from the person concerned in the same manner as
35 wages are¹ recoverable under section 145.

162. (1) A seaman may be sent to a proper return port by any reasonable route either by sea or land or if necessary by air or partly by any one and partly by any other, of these modes.

Mode of providing for return of seamen to proper return port

(2) Provision shall be made for the return of the seaman as to
40 the whole of the route if it is by sea or as to any part of the route which is by sea by placing the seaman on board an Indian ship which

is in want of men to make up its complement, or, if that is not practicable, by providing the seaman with a passage in any ship, Indian or foreign, or with the money for his passage, and, as to any part of the route which is by land or air, by paying the expenses of his journey and of his maintenance during the journey or providing him with means to pay those expenses. 5

(3) Where the master of a ship is required under this Part to provide for the return of a discharged seaman to a proper return port, the master may, instead of providing the seaman's passage or the expenses of his journey or of providing the seaman with means to pay his passage or those expenses, deposit with the proper officer such sum as that officer considers sufficient to defray the expenses of the return of the seaman to a proper return port. 10

Receiving
distressed
seamen on
ships.

163. (1) The master of an Indian ship shall receive on board his ship and afford passage and maintenance to all distressed seamen whom he is required by the Indian consular officer to take on board his ship, and shall during the passage provide every such distressed seaman with accommodation equal to that normally provided for the crew of the ship and subsistence, proper to the rank or rating of the said distressed seaman. 15 20

(2) The master of a ship shall not be required to receive on board his ship a distressed seaman in terms of this section, if the Indian consular officer is satisfied that accommodation is not and cannot be made available for such seaman.

Provisions
as to taking
distressed
seamen on
ships.

164. (1) Where a distressed seaman is for the purpose of his return to a proper return port placed on board an Indian ship, the Indian consular officer by whom the seaman is so placed shall endorse on the agreement with the crew of the ship particulars of the seaman so placed on board. 25

(2) On the production of a certificate signed by the Indian consular officer by whose directions any such distressed seamen were received on board, specifying the number and names of the distressed seamen and the time when each of them was received on board, and on a declaration made by the master stating the number of days during which each distressed seaman has received subsistence and stating the full complement of his crew and the actual number of seamen employed on board his ship and every variation in that number, whilst the distressed seamen received maintenance, the master shall be entitled to be paid in respect of the subsistence and passage of every seaman so conveyed and provided for by him, exceeding the number, if any, wanted to make up the complement of his crew, such sum for each day as the Central Government may by rules made in this behalf allow. 30 35 40

165. In any proceeding under this Part a certificate of the Central Government or of such officer as the Central Government may specify in this behalf to the effect that any seaman named therein is distressed shall be conclusive evidence that such seaman is distressed within the meaning of this Act.

What shall be evidence of distress.

166. If any question arises as to what return port a seaman is to be sent in any case or as to the route by which he should be sent, that question shall be decided by the Indian consular officer concerned, and in deciding any question under this provision the Indian consular officer shall have regard both to the convenience of the seaman and to the expense involved, and also, where that is the case, to the fact that an Indian ship which is in want of men to make up its complement is about to proceed to a proper return port.

Indian consular officer to decide return port to which or route by which seaman is to be sent

167. The Central Government may make rules with respect to the relief, maintenance and return to a proper return port of seamen found in distress in any place out of India and with respect to the circumstances in which, and the conditions subject to which, seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part relating to distressed seamen.

Power to make rules with respect to distressed seamen.

Provisions, health and accommodation

168. (1) All Indian ships and all ships upon which seamen have been engaged shall have on board sufficient provisions and water of good quality and fit for the use of the crew on the scale specified in the agreement with the crew.

Ships to have sufficient provisions and water.

(2) If any person making an inspection under section 176 finds the provisions or water to be of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

(3) The master shall not use any provisions or water so signified to be of bad quality and shall in lieu of such provisions or water, provide other proper provisions or water and he shall, if the provisions or water be signified to be deficient in quantity, procure the requisite quantity of any provisions or water to cover the deficiency.

(4) The person making the inspection shall enter a statement of the result of the inspection in the official log book, and shall, if he is not the shipping master, send a report thereof to the shipping master and that report shall be admissible in evidence in any legal proceeding.

(5) If the inspection was made in pursuance of a request by the members of the crew and the person making the inspection certifies in the statement of the result of the inspection that the complaint was false and either frivolous or vexatious, every member of the crew who made the request shall be liable to forfeit to the owner 5 out of his wages a sum not exceeding one week's wages.

(6) The master of the ship and any other person having charge of any provisions or water liable to inspection under this section shall give the person making the inspection every reasonable facility for the purpose. 10

Allowances
for short or
bad
provisions.

169. (1) In either of the following cases, that is to say,—

(a) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, or

(b) if it is shown that any of those provisions are or have 15 during the voyage been bad in quality or unfit for use,

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance, sums in accordance with such scale as may be prescribed, to be paid to him in addition to, and to be recoverable as, wages. 20

(2) If it is shown to the satisfaction of the court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take those circumstances into 25 consideration in making an order.

Foreign-
going Indian
ship to carry
duly certi-
ficated cook.

170. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify, every foreign-going Indian ship of such tonnage as may be prescribed shall be provided with, and shall carry, a cook duly certificated under this 30 Act.

(2) The Central Government may make rules specifying the qualifications, experience or sea service which may be required from persons who wish to obtain certificates of competency as cooks under this Act, and the conditions under which any such certificate may 35 be granted, cancelled or suspended.

Weights and
measures on
board.

171. The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used

at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities.

172. (1) The owner of every ship of over five hundred tons gross shall supply or cause to be supplied to every seaman for his personal use, bedding, towels, mess utensils and other articles according to such scale as may be prescribed; and different scales may be prescribed in respect of different classes of ships.

Beddings, towels, medicines, medical stores, etc. to be provided and kept on board certain ships.

(2) All foreign-going Indian ships and all home-trade ships of two hundred tons gross or more shall have always on board a sufficient supply of medicines, medical stores, appliances and first aid equipment suitable for diseases and accidents likely to occur on voyages according to such scale as may be prescribed.

(3) It shall be the duty of the port health officer or such other person as the Central Government may appoint in this behalf to inspect the medicines, medical stores and appliances with which a ship is required to be provided.

173. (1) Every foreign-going ship carrying more than the prescribed number of persons (including the crew), shall have on board as part of her complement a medical officer possessing such qualifications as may be prescribed.

Certain ships to carry medical officer.

(2) Nothing in this section shall apply to an unberthed passenger ship or a pilgrim ship.

174. (1) If the master of an Indian ship, or a seaman or apprentice, receives any hurt or injury or suffers from any illness (not being a hurt, injury or illness due to his own wilful act or default or to his own misbehaviour), resulting in his being discharged or left behind at a place other than his proper return port, the expenses of providing the necessary surgical and medical advice, attendance and treatment and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured, or dies, or is brought back to the port from which he was shipped or other port agreed upon after receiving the necessary medical treatment, and of his conveyance to that port, and in case of death, the expenses, if any, of his burial or cremation shall be defrayed by the owner of the ship without any deduction on that account from his wages.

Expenses of medical attendance in case of illness.

(2) If the master, seaman or apprentice is on account of any illness or injury temporarily removed from his ship, at a port other than his proper return port, for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently

returns to his duty, the expenses of removal and of providing the necessary surgical and medical advice, attendance and treatment and medicine and of his maintenance while away from the ship, shall be defrayed in like manner.

(3) The expenses of all medicines, and surgical and medical advice, attendance and treatment, given to a master, seaman or apprentice while on board his ship, shall be defrayed in like manner.

(4) In all other cases any reasonable expenses duly incurred by the owner for any master, seaman or apprentice in respect of illness, * * * shall, if proved to the satisfaction of the Indian consular officer or a shipping master, be deducted from the wages of the master, seaman or apprentice.

(5) Where any expenses referred to in this section have been paid by the master, seaman or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid by the Government, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Central Government.

Accommoda-
tion for
seamen.

175. (1) The Central Government may, subject to the condition of previous publication, make rules with respect to the crew accommodation to be provided in ships of any class specified in the rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the minimum space for each person which must be provided in any ship to which the rules apply by way of sleeping accommodation for seamen and apprentices and the maximum number of persons by whom any specified part of such sleeping accommodation may be used;

(b) the position in any such ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;

(c) the submission to such authority as may be specified in this behalf of plans and specifications of any works proposed to be carried out for the provision or alteration of any such accommodation and the authorisation of that authority to inspect any such works;

(d) the maintenance and repair of any such accommodation and the prohibition or restriction of the use of any such accommodation for purposes other than those for which it is designed;

5 (e) the manner as to how ships registered or under construction at the commencement of any rules made under this section may be dealt with after such commencement;

and such rules may make different provisions in respect of different classes of ships and in respect of crew accommodation provided for different classes of persons.

(3) If any person making an inspection under section 176 finds that the crew accommodation is insanitary or is not in accordance with the provisions of this Act, he shall signify it in writing to the master of the ship and may, if he thinks fit, detain the ship 15 until the defects are remedied to his satisfaction.

Explanation.—In this section, the expression “crew accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen 20 and apprentices, not being accommodation which is also used by, or provided for the use of, passengers.

176. A shipping master, surveyor, seamen's welfare officer, port health officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government— 25 ment—

Inspection by shipping master, etc., of provisions, water, weights and measures and accommodation.

(a) in the case of any ship upon which seamen have been shipped at that port, may at any time, and

(b) in the case of any Indian ship, may at any time, and if the master or three or more of the crew so request, shall, 30 enter on board the ship and inspect—

- (i) the provisions and water,
- (ii) the weights and measures,
- (iii) the accommodation for seamen,

with which the ship is required to be provided by or under this 35 Act and also the space and equipment used for the storage and handling of food and water and the galley and other equipment used for the preparation and service of meals.

Inspection
by master of
provisions,
water and
accommoda-
tion at sea.

177. The master of an Indian ship which is at sea shall, at least once in every ten days, cause an inspection to be made of the provisions and water provided for the use of the seamen and apprentices and the crew accommodation, for the purpose of ascertaining whether the same are being maintained in accordance with the requirements of this Act, and the person making the inspection shall enter a statement of the result of the inspection in a book specially kept for the purpose.

Meaning of
serving
seaman.

Special provisions for the protection of seamen in respect of litigation

* 178. A seaman shall, for the purposes of these provisions, be deemed to be a serving seaman during any period commencing on the date of the agreement with the crew and ending thirty days after the date on which the seaman is finally discharged from such agreement.

Particulars
to be furni-
shed in
plaints, etc.

179. (1) If any person presenting any plaint, application or appeal to any court has reason to believe that any adverse party is a serving seaman, he shall make a statement accordingly in the plaint, application or appeal.

(2) If any collector has reason to believe that any seaman who ordinarily resides or has property in his district and who is a party to any proceeding pending before any court is unable to appear therein or is a serving seaman, the collector may certify the facts to the court.

Notice to be
given in case
of unrepres-
ented
seaman.

180. (1) If a collector has certified under sub-section (2) of section 179, or if a court has reason to believe that a seaman who is a party to any proceeding before the court, is unable to appear therein or is a serving seaman, the court shall suspend the proceeding and shall give notice thereof to the shipping master:

Provided that the court may refrain from suspending the proceeding and giving the notice—

(a) if the proceeding is one instituted or made by the seaman, alone or conjointly with others, with the object of enforcing a right of pre-emption, or

(b) if the interests of the seaman in the proceeding are, in the opinion of the court, either identical with those of any other party thereto and adequately represented by such other party, or merely of a formal nature.

(2) If it appears to the court before which any proceeding is pending that a seaman though not a party to the proceeding is materially concerned in the outcome of the proceeding and that his interests are likely to be prejudiced by his inability to attend, the court may suspend the proceeding and shall give notice thereof to the shipping master.

(3) If on receipt of a notice under sub-section (1) or sub-section (2), the shipping master certifies to the court, that the seaman is a serving seaman, the court shall thereupon postpone the proceeding in respect of the seaman for such period as it thinks fit:

5 Provided that if by reason of the continued absence of the seaman the question of any further postponement of the proceeding in respect of the seaman arises, the court shall in deciding the question have regard to the purposes of the provisions of this Act conferring special protection on seaman in respect of litigation.

10 (4) If the shipping master either certifies that the seaman is not for the time being a serving seaman or fails within two months from the date of the receipt of the notice under sub-section (1) or sub-section (2), as the case may be, to certify that the seaman is a serving seaman, the court may, if it thinks fit, continue the pro-
15 ceeding.

181. (1) Where in any proceeding before a court, a decree or order has been passed against any seaman while he was a serving seaman, the seaman, or if he dies while he is a serving seaman, his legal representative, may apply to the said court to have the decree
20 or order set aside, and if the court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the seaman, the court shall subject to such conditions, if any, as it thinks fit to impose, make an order accordingly, and may,
25 if it appears that any opposite party in the proceeding has failed to comply with the provisions of sub-section (1) of section 179, award, subject to such conditions as it thinks fit to impose, damages against such opposite party.

Power to set aside decrees and orders passed against serving seaman.

(2) The period of limitation for an application under sub-section
30 (1) shall be sixty days from the date on which the seaman first ceases to be a serving seaman after the passing of the decree or order, or where the summons or notice was not duly served on the seaman in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the
35 decree or order, whichever is later; and the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to such applications.

9 of 1908.

(3) Where the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the seaman only, it may be set aside as
40 against all or any of the parties against whom it was made.

(4) Where a court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be, in respect of which the decree or order was passed.

Modification of law of limitation where seaman is a party.

182. (1) In computing the period of limitation provided in the foregoing provisions or in the Indian Limitation Act, 1908, or in any other law for the time being in force, for any suit, appeal or application to a court to which a seaman is a party, the period or periods during which the seaman has been a serving seaman, and if the seaman has died while he was a serving seaman, the period from the date of his death to the date on which his next of kin was first informed, by the shipping master or otherwise, of his death, shall be excluded: 9 of 1908. 5

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption except in such areas and in such circumstances as the Central Government may, by notification in the Official Gazette, specify in this behalf. 10

Reference in matters of doubt to shipping masters.

183. If any court is in doubt whether, for the purposes of section 180 or section 181, a seaman is or was at any particular time or during any particular period a serving seaman, it may refer the question to the shipping master, and the certificate of the shipping master shall be conclusive evidence on the question. 15

Provisions for the protection of seamen in respect of other matters 20

Facilities for making complaints.

184. If a seaman or apprentice states to the master that he desires to make a complaint to a magistrate or other proper officer against the master or any of the crew, the master shall,—

(a) if the ship is then at a place where there is a magistrate or other proper officer, as soon after such statement as the service of the ship will permit, and 25

(b) if the ship is not then at such place, as soon after her first arrival at such place as the service of the ship will permit, allow the complainant to go ashore or send him ashore under proper protection so that he may be enabled to make the complaint. 30

Assignment or sale of salvage invalid.

185. Subject to the provisions of this Act, an assignment of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable. 35

No debt recoverable till end of voyage.

186. A debt incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded.

187. (1) Any person who receives or takes into his possession or under his control any money or other property of a seaman or apprentice shall return the same or pay the value thereof when required by the seaman or apprentice subject to deduction of such amounts as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise.

Seamen's property not to be detained.

(2) Where a magistrate imposes a fine for a contravention of this section, he may direct the amount of such money or the value of the property subject to such deduction as aforesaid, if any, or the property itself to be forthwith paid or delivered to the seaman or apprentice.

188. No person shall, while a ship is at any port or place in India—

(a) solicit a seaman or apprentice to become a lodger at the house of any person letting lodgings for hire; or

Prohibition against solicitation by lodging house keepers.

(b) take out of the ship any property of the seaman or apprentice except under the direction of the seaman or apprentice and with the permission of the master.

189. Where a ship has arrived at a port or place in India at the end of a voyage and any person, not being in the service of the Government or not being duly authorised by law for the purpose, goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), the master of the ship may take such person into custody and deliver him up forthwith to a police officer to be taken before a magistrate to be dealt with according to the provisions of this Act.

Ship not to be boarded without permission before seamen leave.

Provisions as to discipline

190. No master, seaman or apprentice belonging to an Indian ship, wherever it may be, or to any other ship, while in India, shall knowingly—

Misconduct endangering life or ship.

(a) do anything tending to the immediate loss or destruction of, or serious damage to, the ship, or tending immediately to endanger the life of, or to cause injury to any person belonging to or on board the ship; or

(b) refuse or omit to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board the ship from danger to life or from injury.

Desertion
and absence
without
leave.

191. (1) No seaman lawfully engaged and no apprentice—

(a) shall desert his ship; or

(b) shall neglect or refuse, without reasonable cause, to join the ship or to proceed to sea in his ship or be absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or be absent at any time without leave and without sufficient reason from his ship or from his duty.

(2) For the purposes of sub-section (1), the fact that the ship on which the seaman or apprentice is engaged or to which he belongs is unseaworthy shall be deemed to be a reasonable cause:

Provided that the seaman or apprentice has, before failing or refusing to join his ship or to proceed to sea in his ship or before absenting himself or being absent from the ship, as the case may be, complained to the master or a shipping master, surveyor, seamen's welfare officer, port health officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government, that the ship is unseaworthy.

Power to
suspend
deserter's
certificate of
discharge.

192. If it is shown to the satisfaction of a proper officer that a seaman has deserted his ship or has absented himself without leave and without sufficient reason from his ship or from his duty, the proper officer shall forthwith make a report to that effect to the Director-General who may thereupon direct that the seaman's certificate of discharge or continuous certificate of discharge shall be withheld for such period as may be specified in the direction.

Conveyance
of deserter
or imprison-
ed seaman
on board
ship.

193. (1) If a seaman or apprentice deserts his ship or is absent without leave and without sufficient reason from his ship or from his duty, the master, any mate, the owner or agent of the owner of the ship may, without prejudice to any other action that may be taken against the seaman or apprentice under this Act, convey him on board his ship and may for that purpose cause to be used such force as may be reasonable in the circumstances of the case.

(2) If, either at the commencement or during the progress of any voyage, a seaman or apprentice engaged in an Indian ship commits outside India, the offence of desertion or absence without leave or any offence against discipline, the master, any mate, the owner or agent of the owner may, if and so far as the laws in force in the place will permit, arrest him without first procuring a warrant.

(3) No person shall convey on board or arrest a seaman or apprentice on improper or insufficient grounds.

(4) Where a seaman or apprentice is brought before a court on the ground of desertion or of absence without leave or of any offence

against discipline, and the master or the owner, or his agent, so requires, the court, may, in lieu of committing and sentencing him for the offence, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master
5 or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue
10 of his then existing engagements may afterwards be earned.

194. A seaman lawfully engaged or an apprentice shall be guilty of an offence against discipline if he commits any of the following acts, namely:—

General
offences
against
discipline.

(a) if he quits the ship without leave after her arrival at
15 her port of delivery and before she is placed in security;

(b) if he is guilty of wilful disobedience to any lawful command or neglect of duty;

(c) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty;

(d) if he assaults the master or any other officer of the
20 ship;

(e) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or retard the progress of the voyage;

(f) if he wilfully damages his ship or commits criminal
25 misappropriation or breach of trust in respect of, or wilfully damages any of, her stores or cargo.

195. (1) If a seaman lawfully engaged or an apprentice is convicted of an offence of smuggling any goods whereby loss or damage is
30 occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to reimburse the loss or damage and the whole or a part of his wages may be retained in satisfaction on account of that liability without prejudice to any other remedy.

Smuggling of
goods by
seamen or
apprentices.

(2) If a seaman lawfully engaged is convicted of an offence of
35 smuggling opium, hemp or any other narcotic drug or narcotic, the Director-General may direct that the seaman's certificate of discharge or continuous certificate of discharge shall be cancelled or shall be suspended for such period as may be specified in the
40 direction.

Entry of
offences in
official logs.

196. If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

(a) an entry of the offence or act shall be made in the official log book and signed by the master, the mate and one of the crew; and

(b) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, * be furnished with a copy of the entry and have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and

(c) a statement of a copy of the entry having been so furnished and the entry having been so read over and * * * the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and

(d) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of such production or proof, the court hearing the case may in its discretion, refuse to receive evidence of the offence or act of misconduct.

Report of
desertions
and absences
without
leave.

197. Whenever any seaman engaged outside India on an Indian ship deserts or otherwise absents himself in India without leave, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping master or to such other officer as the Central Government specifies in this behalf, unless in the meantime, the deserter or absentee returns.

Entries and
certificates of
desertion
abroad.

198. (1) In every case of desertion from an Indian ship whilst such ship is at any place out of India, the master shall produce the entry of desertion in the official log book to the Indian consular officer at the place, and that officer shall thereupon make and certify a copy of the entry.

(2) The master shall forthwith transmit such copy to the shipping master at the port at which the seaman or apprentice was shipped, and the shipping master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

199. (1) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log book.

Facilities for proving desertion in proceedings for forfeiture of wages.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship.

200. (1) Where any wages or other property are under this Act forfeited for desertion from a ship, they shall be applied towards reimbursing the expenses caused by the desertion to the master or the owner of the ship, and subject to that reimbursement, shall be paid to the Central Government.

Application of forfeitures.

(2) For the purposes of such reimbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the court in any legal proceeding relating to such wages may order them to be paid accordingly.

201. Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Decision of questions of forfeiture and deduction in suits for wages.

202. (1) Every fine imposed on a seaman for any act of misconduct under his agreement shall be deducted and paid over as follows, namely:—

Payment of fines imposed under agreement to shipping master.

(a) if the offender is discharged at any port or place in India and the offence and such entries in respect thereof as aforesaid are proved to the satisfaction of the shipping master before whom the offender is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping master; and

(b) if the seaman is discharged at any port or place outside India and the offence and such entries as aforesaid are proved to the satisfaction of the Indian consular officer, by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book, if any, and signed by such officer and on the return of the ship to India, the master or owner shall pay over such fine to the shipping master before whom the crew is discharged. 5

(2) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punishable under the provisions of this Act. 10

(3) The proceeds of all fines received by a shipping master under this section shall be utilised for the welfare of seamen in such manner as the Central Government may direct. 15

Seaman or apprentice not to be enticed to desert.

203. No person shall by any means whatever persuade or attempt to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty.

Deserters not to be harboured.

204. No person shall harbour or secrete a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done. 20

Stowaways and seamen carried under compulsion.

205. (1) No person shall secrete himself and go to sea in a ship without the consent of either the owner, agent or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent. 25

(2) Every sea faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and has signed the agreement with, the crew. 30 35

(3) The master of any Indian ship arriving at any port or place in or outside India and the master of any ship other than an Indian ship arriving at any port or place in India shall, if any person has gone to sea on that ship without the consent referred to in subsection (1), report the fact in writing to the proper officer as soon as may be after the arrival of the ship. 40

206. If any seaman engaged outside India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

Procedure where seaman not shipped in India is imprisoned on complaint of master or owner.

5 (a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Central Government or of such officer as it may specify in this behalf, engage in India any person to serve as a substitute for such seaman on board the ship; and

10 (b) the Central Government or such officer as it may specify in this behalf may tender such seaman to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Central Government or to such officer as aforesaid, refuses to receive
15 him on board, may require such master or owner to deposit in the local shipping office—

(i) the wages due to such seaman and his money and other property; and

20 (ii) such sum as may, in the opinion of the Central Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

207. If any seaman engaged outside India is imprisoned for
25 any offence for which he has been sentenced to imprisonment for a term not exceeding three months, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any magistrate may, at the request of the master or owner or his agent, cause the seaman to be conveyed on board
30 the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

Power to send on board seaman not shipped in India who is undergoing imprisonment.

208. (1) If during the progress of a voyage the master of any
35 Indian ship is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody.

On change of master, documents to be handed over to successor.

(2) Such successor shall immediately on assuming the command of the ship enter in the official log book a list of the documents so delivered to him.

Transmission
of documents
on transfer
of seaman
from one ship
to another.

209. Where a seaman is transferred under his agreement from one ship to another, the master of the ship from which the seaman is transferred shall, as soon as practicable, transmit to the master of the other ship all documents in his possession relating to the seaman. 5

Leaving
behind in
India of
seaman or
apprentice
engaged
abroad.

210. (1) The master of a ship shall not discharge at any place in India, a seaman or apprentice engaged outside India unless he previously obtains the sanction in writing of such officer as the Central Government appoints in this behalf; but such sanction shall not be refused when the seaman or apprentice is discharged on the termination of his service. 10

(2) Subject to the provisions contained in sub-section (1), the sanction under that sub-section shall be given or withheld at the discretion of the officer so appointed, but whenever it is withheld, the reasons for so withholding it shall be recorded by him. 15

Deserters
from foreign
ships.

211. (1) Where it appears to the Central Government that due facilities are or will be given by the Government of any country outside India for recovering and apprehending seamen who desert from Indian ships in that country, the Central Government may, by notification in the Official Gazette, stating that such facilities are or will be given, declare that this section shall apply to seamen belonging to ships of such country, subject to such limitations or conditions as may be specified in the notification. 20

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(2) Where this section applies to seamen belonging to ships of any country and a seaman deserts from any such ship, when within India, any court that would have had cognizance of the matter if the seaman or apprentice had deserted from an Indian ship shall, on the application of a consular officer of that country, aid in apprehending the deserter and for that purpose may, on information given on oath, issue a warrant for his apprehension and on proof of the desertion order him to be conveyed on board his ship or delivered to the master or mate of his ship or to the owner of the ship or his agent to be so conveyed and any such warrant or order may be executed accordingly. 30 35

Official logs

212. (1) An official log shall be kept in the prescribed form in every Indian ship except a home-trade ship of less than two hundred tons gross. Official logs to be kept and to be dated.

5 (2) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log book be duly filled up.

213. (1) An entry required by this Act in the official log book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival. Entries in official log books how and when to be made.

(2) Save as otherwise provided in this Act, every entry in the official log book shall be signed by the master and by the mate or some other member of the crew and also—

20 (a) if it is an entry of injury or death, shall be signed by the medical officer on board, if any; and

(b) if it is an entry of wages due to or the property of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master.

25 (3) Every entry made in an official log book in the manner provided by this Act shall be admissible in evidence.

214. (1) The master of a ship for which an official log is required shall enter or cause to be entered in the official log book the following matters, namely:— Entries required to be made in official log books.

30 (a) every conviction by a legal tribunal of a member of his crew and the punishment inflicted;

(b) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine, together with such statement concerning the reading over of that entry and concerning the reply (if any) made to the charge as is by this Act required;

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(c) every offence for which punishment is inflicted on board and the punishment inflicted;

(d) a report on the quality of work of each member of his crew, or a statement that the master declines to give an opinion thereon with a statement of his reasons for so declining;

(e) every case of illness, hurt or injury happening to a member of the crew with the nature thereof and the medical treatment adopted (if any);

(f) every case of death happening on board and the cause thereof, together with such particulars as may be prescribed;

(g) every birth happening on board, with the sex of the infant, the names of the parents and such other particulars as may be prescribed;

(h) every marriage taking place on board with the names and ages of the parties;

(i) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;

(j) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;

(k) the money or other property taken over of any seaman or apprentice who dies during the voyage;

(l) any other matter which is to be or may be prescribed for entry in the official log.

(2) The master of every such ship, upon its arrival at any port in India or at such other time and place as the Central Government may with respect to any ship or class of ships direct, shall deliver or transmit, in such form as the Director-General may specify, a return of the facts recorded by him in respect of the birth of a child, or the death of a person on board the ship to the Director-General.

(3) (a) The Director-General shall send a certified copy of such of the returns received by him under sub-section (2) as relate to citizens of India, to such officer as may be specified in this behalf by the Central Government; and such officer shall cause the same to be preserved in such manner as may be specified in this behalf by the Central Government.

(b) Every such copy shall be deemed to be a certified copy of the entry with respect to the person concerned, registered under

any law in force for the time being relating to the registration of births and deaths.

215. (1) An official log book shall be kept in the manner required by this Act, and an entry directed by this Act to be made therein shall be made at the time and in the manner directed by this Act. Offences in respect of official logs.

(2) No person shall make or procure to be made or assist in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival.

216. The master of every ship for which an official log book is required to be kept under this Act shall, within forty-eight hours after the ship's arrival at her final port of destination in India or upon the discharge of the crew, whichever first happens, deliver the official log book of the voyage to the shipping master before whom the crew is discharged. Delivery of official logs to shipping masters.

217. (1) If for any reason the official log ceases to be required in respect of an Indian ship, the master or owner of the ship shall, if the ship is then in India within one month, and if she is elsewhere within six months, after the cessation, deliver or transmit to the shipping master at the port to which the ship belonged the official log book duly completed up to the time of cessation. Official logs to be sent to shipping master in case of transfer of ship or loss.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable and as soon as possible, deliver or transmit to the shipping master at her port of registry the official log book, duly completed up to the time of the loss or abandonment.

National Welfare Board for Seafarers

218. (1) The Central Government may, by notification in the Official Gazette, constitute an advisory board to be called the National Welfare Board for Seafarers (hereinafter referred to as the Board) for the purpose of advising the Central Government on the measures to be taken for promoting the welfare of seamen (whether ashore or on board ship) generally and in particular the following:— Functions of National Welfare Board for Seafarers.

(a) the establishment of hostels or boarding and lodging houses for seamen;

(b) the establishment of clubs, canteens, libraries and other like amenities for the benefit of seamen;

(c) the establishment of hospitals for seamen or the provision of medical treatment for seamen;

(d) the provision of educational and other facilities for seamen.

(2) The Central Government may make rules providing for—

(a) the composition of the Board and the term of office of members thereof;

(b) the procedure to be followed in the conduct of business by the Board;

(c) the travelling and other allowances payable to members of the Board;

(d) the levy of fees payable by owners of ships at such rates as may be prescribed (which may be at different rates for different classes of ships) for the purpose of providing amenities to seamen and for taking other measures for the welfare of seamen;

(e) the procedure by which any such fees may be collected or recovered.

PART VIII

PASSENGER SHIPS

Survey of passenger ships

Application
of Part.

219. This Part applies only to sea-going passenger ships fitted with mechanical means of propulsion, but the provisions of this Part relating to unberthed passenger ships shall not apply—

(a) to any such ship not carrying more than thirty unberthed passengers; or

(b) to any such ship not intended to carry unberthed passengers to or from any port or place in India.

No ship to
carry pas-
sengers
without a
certificate of
survey.

220. (1) No ship shall carry more than twelve passengers between ports or places in India or to or from any port or place in India from or to any port or place outside India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed:

Provided that nothing in this section shall apply to any ship which has been granted a certificate under section 235, unless it appears from the certificate that it is inapplicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient.

(2) No customs collector shall grant a port clearance, nor shall any pilot be assigned, to any ship for which a certificate of survey

is required by this Part until after the production by the owner, agent or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

- 5 (3) If any ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any customs collector or any pilot on board the ship may detain her until she obtains a certificate.

221. (1) The owner or agent of every passenger ship for which ^{Power of} a certificate of survey is required under this Part shall cause it to ^{surveyor.} be surveyed in the prescribed manner.

(2) For the purposes of a survey under this Part, a surveyor may, at any reasonable time, go on board a ship, and may inspect the ship and any part thereof, and the machinery, equipment or 15 articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the ship, or unnecessarily detain or delay her from proceeding on any voyage.

(3) The owner, agent, master and every officer of the ship shall 20 afford to the surveyor all reasonable facilities for a survey, and all such information respecting the ship and her machinery and equipment, or any part thereof, respectively, as the surveyor reasonably requires.

222. Before a survey under this Part is commenced, the owner, ^{Fees in} agent or master of the ship to be surveyed shall pay to such officer ^{respect of} as the Central Government may appoint in this behalf— ^{survey.}

(a) a fee calculated on the tonnage of the ship according to the prescribed rates;

30 (b) when the survey is to be made in any port of survey other than Bombay, Calcutta or Madras, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port as the Central Government may by order direct.

223. When a survey under this Part is completed, the surveyor ^{Declaration} making it shall forthwith, if satisfied that he can with propriety do ^{of survey.} so, deliver to the owner, agent or master of the ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:—

40 (a) that the hull and machinery of the ship are sufficient for the service intended and in good condition;

(b) that the equipment of the ship is in such condition and that the certificates of the master, mates, engineers or engine-drivers and of the radio telegraphy operators ***, are such, as are required by this Act or any other law for the time being in force and applicable to the ship; 5

(c) the time (if less than one year) for which the hull, machinery and equipment of the ship will be sufficient;

(d) the voyages or class of voyages on which, as regards construction, machinery and equipment, the ship is in the surveyor's opinion fit to ply; 10

(e) the number of passengers which the ship is, in the opinion of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires; and 15

(f) any other prescribed particulars.

224. (1) The owner, agent or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Central Government may appoint in this behalf. 20

Sending of declaration by owner, agent or master to Central Government.

(2) If the owner, agent or master fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed and shall pay any sum so forfeited on the delivery of the certificate of survey. 25

225. (1) Upon receipt of a declaration of survey, the Central Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the ship was surveyed as the Central Government may appoint in this behalf, to the owner, agent or master of the ship surveyed, on his applying and paying the sums (if any) mentioned in section 224 as payable on the delivery of a certificate. 30

Grant of certificate of survey by Central Government.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall also set forth— 35

(a) the particulars concerning the ship which clauses (c), 40

(d) and (e) of section 223 require the declaration of * survey to contain; and

(b) any other prescribed particulars.

226. (1) If a surveyor making a survey under this Part refuses to give a declaration of survey under section 223 with regard to any ship, or gives a declaration with which the owner or agent or master of the ship surveyed is dissatisfied the Central Government may, on the application of the owner, agent or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Central Government may require, direct any other surveyor to survey the ship.

Power of Central Government to order a second survey.

(2) The surveyor so directed shall forthwith survey the ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to him proper, and his decision shall, save as otherwise provided in this Act, be final.

227. (1) A certificate of survey granted under this Part shall not be in force—

Duration of certificates of survey.

(a) after the expiration of one year from the date of issue; or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipment have been stated in the certificate to be sufficient; or

(c) after notice has been given by the Central Government to the owner, agent or master of the ship to which the certificate relates that the Central Government has cancelled or suspended it.

(2) The surveyor so directed shall forthwith survey the ship, her certificate expires, the provisions of this Part relating to certificate of survey shall not be deemed to be contravened unless she first begins to ply with passengers after her next return to India.

228. (1) Any certificate of survey granted under this Part may be cancelled or suspended by the Central Government if it has reason to believe—

Cancellation or suspension of certificate of survey by Central Government.

(a) that the declaration by the surveyor of the sufficiency of the hull, boilers, engines or any of the equipment of the ship has been fraudulently or erroneously made; or

(b) that the certificate has otherwise been issued upon false or erroneous information.

(2) Before any certificate of survey is cancelled or suspended under sub-section (1), the holder of the certificate shall be given a reasonable opportunity of showing cause why the certificate should not be cancelled or suspended, as the case may be:

Provided that this sub-section shall not apply where the Central Government is satisfied that for some reason to be recorded in writing it is not reasonably practicable to give to the holder of the certificate an opportunity of showing cause.

Alterations in ships subsequent to grant of certificate of survey, and additional surveys.

229. (1) The owner, agent or master of a ship in respect of which a certificate of survey granted under this Part is in force, shall, as soon as possible after any alteration is made in the ship's hull, equipment or machinery which affects the efficiency thereof or the seaworthiness of the ship, give written notice to such person as the Central Government may direct containing full particulars of the alteration.

(2) If the Central Government has reason to believe that since the making of the last declaration of survey in respect of a ship—

(a) any such alteration as aforesaid has been made in the hull, equipment or machinery of the ship; or

(b) the hull, equipment or machinery of the ship have sustained any injury or are otherwise insufficient;

the Central Government may require the ship to be again surveyed to such extent as it may think fit, and, if such requirement is not complied with, may cancel any certificate of survey issued under this Part in respect of the said ship.

Power to require delivery of expired or cancelled certificate of survey.

230. Every certificate of survey granted under this Part which has expired, or has been cancelled or suspended, shall be delivered to such person as the Central Government may direct.

Certificate of survey to be affixed in conspicuous part of ship

231. The owner or master of every ship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the ship is in use on some conspicuous part of the ship where it may be easily read by all persons on board thereof.

Ship not to carry passenger in contravention of Act.

232. (1) No ship on any voyage shall carry or attempt to carry passengers in contravention of section 220 or shall have on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the ship or the part thereof is fit to carry on that voyage.

(2) If the master or any other officer of any ship which carries or attempts to carry passengers in contravention of section 220 is a licensed pilot, he shall be liable to have his licence as a pilot cancelled or suspended for such period as the Central Government may, by order, specify.

Keeping order in passenger ships

233. (1) If, in the case of a ship for which a certificate of survey has been granted under this Part,—

Offences in connection with passenger ships.

10 (a) any person being drunk or disorderly has been on that account refused admission thereto by the owner or any person in his employ and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;

15 (b) any person being drunk or disorderly on board the ship is requested by the owner or any person in his employ to leave the ship at any place in India at which he can conveniently do so, and after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request;

20 (c) any person on board the ship after warning, by the master or other officer thereof, molests or continues to molest any passenger;

* * * * *

25 (d) any person having gone on board the ship at any place and being requested, on account of the ship being full, by the owner or any person in his employ to leave the ship, before it has departed from that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request;

30 (e) any person travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof;

35 (f) any person on arriving in the ship at the place for which he has paid his fare knowingly and wilfully refuses or neglects to quit the ship;

(g) any person on board the ship fails when requested by the master or other officer thereof either to pay his fare or

to exhibit such ticket or other receipt, if any, showing the payment of his fare as is usually given to persons travelling by and paying fare for the ship;

he shall be guilty of an offence under this sub-section.

(2) No person on board any such ship shall wilfully do or 5
cause to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the ship or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship.

10

(3) The master or other officer of any such ship and all persons called by him to his assistance may, without warrant, detain any person who commits any offence under this section and whose name and address are unknown to the master or officer and convey the offender with all convenient despatch before the nearest magistrate 15
to be dealt with according to law.

Power to
exclude
drunken
passengers
from
passenger
ships.

234. The master of any passenger ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state or misconducts himself in such a manner as to cause annoyance or injury to passengers on board, and if any such 20
person is on board, may put him on shore at any convenient place; and a person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

Ships with
certificates
of survey or
certificates
of partial
survey
granted out-
side India.

235. (1) When a ship requires to be furnished with a certificate of survey under this Part and the Central Government is satisfied— 25

(a) by the production of a certificate of survey that the ship has been officially surveyed at a port in a country outside India;

(b) that the requirements of this Act are proved by that survey to have been substantially complied with; and

(c) that certificates of survey granted under this Part are 30
accepted in such country in lieu of the corresponding certificates required under the laws in force in that country;

the Central Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same 35
effect as a certificate given after survey under this Part.

(2) When the Central Government has, by notification in the Official Gazette, declared that it is satisfied that an official survey at a port in a country outside India specified in the declaration is

such as to prove that the requirements of this Act have been substantially complied with, any person authorised by the Central Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Central Government by sub-section (1) in the case of any ship furnished with a valid certificate of survey granted at such port.

(3) The provisions of sub-section (1) shall be applicable in the case of ships furnished with valid certificates of partial survey including docking certificates, as if they were ships furnished with like certificates granted at ports in countries outside India subject to the modification that the powers of the Central Government under the said sub-section may be exercised by any person authorised by the Central Government in this behalf.

236. (1) The Central Government may, subject to the condition of previous publication, make rules to regulate the making of surveys under this Part and the provisions to be made for the safety of life at sea.

Power to make rules as to surveys.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the times and places at which, and the manner in which, surveys are to be made;

(b) the requirements as to construction, machinery, equipment and marking of sub-division load lines, which are to be fulfilled by ships generally or by any class of ships in particular before a declaration of survey may be granted;

(c) the survey of ships by two or more surveyors;

(d) the duties of the surveyor making a survey and, where two or more surveyors are employed, the respective duties of each of the surveyors employed;

(e) the form in which declarations of survey and certificates of survey under this Part are to be made and the nature of the particulars to be stated therein respectively;

(f) the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey;

(g) the closing of, and keeping closed, the openings in ships' hulls and in water-tight bulkheads;

(h) the securing of, and keeping in place and the inspection of contrivances for closing any such openings as aforesaid;

(i) the operation of mechanisms of contrivances for closing any such openings as aforesaid and the drills in connection with the operation thereof; and

(j) the entries to be made in the official log book or other record to be kept of any of the matters aforesaid.

5

Unberthed passenger ships and pilgrim ships

Ports or places where unberthed passengers or pilgrims may embark or be discharged.

237. (1) Neither an unberthed passenger ship nor a pilgrim ship shall depart or proceed from or discharge unberthed passengers or pilgrims, as the case may be, at any port or place within India other than a port or place appointed in this behalf by the Central Government for unberthed passenger ships or pilgrim ships, as the case may be.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as an unberthed passenger or pilgrim, as the case may be, except at some other port or place so appointed.

Notice to be given of day of sailing.

238. (1) The master, owner or agent of an unberthed passenger ship or a pilgrim ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Central Government that the ship is to carry unberthed passengers or pilgrims and of her destination and of the proposed time of sailing.

(2) The notice shall be given—

(a) in the case of an unberthed passenger ship, not less than twenty-four hours before that time;

(b) in the case of a pilgrim ship at the original port of departure, if in India, and in any other case at the first port at which she touches in India, not less than three days, and at all other ports not less than twenty-four hours, before that time.

Power to enter on and inspect ship.

239. After receiving the notice under section 238 the officer appointed under that section or a person authorised by him in this behalf shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Ship not to sail without certificates A and B.

240. (1) A ship intended to carry unberthed passengers or pilgrims shall not commence a voyage from the port or place appointed under sub-section (1) of section 237, unless the master holds two certificates to the effect mentioned in sections 241 and 242.

(2) The customs collector whose duty it is to grant a port clearance for the ship shall not grant it unless the master holds the aforesaid certificates.

241. (1) The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and— Contents of certificate A.

(a) in the case of an unberthed passenger ship, the number of passengers which she is capable of carrying;

(b) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

(2) Certificate A shall be in the prescribed form and shall be in force for a period of one year from the date of issue or for such shorter period as may be specified therein and it shall be issued in duplicate.

(3) Where the master of a ship produces to the certifying officer a certificate of survey granted under this Part or a safety certificate granted under Part IX in respect of the ship in force and applicable to the voyage on which the ship is about to be employed, the certifying officer may, if the particulars required by sub-section (1) are certified thereby, accept the certificate of survey or safety certificate in lieu of certificate A; and such certificate shall then be deemed to be a certificate A for the purposes of this Part in respect of that voyage.

242. The second of the certificates (hereinafter called "certificate B") shall be in the prescribed form and shall state— Contents of certificate B.

(a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that the master holds a certificate of survey or a safety certificate or certificate A;

(d) that she has on board such number of medical officers licensed in the prescribed manner and such number of attendants, if any, as may be prescribed;

(e) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for unberthed passenger ships or pilgrim ships, have been placed

on board, of the quality prescribed, properly packed, and sufficient to supply the unberthed passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale; 5

(f) in the case of an unberthed passenger ship, if the ship is to make a voyage in a season of foul weather specified as such in the rules made under section 262, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather; 10

(g) in the case of an unberthed passenger ship, the number of cabin and unberthed passengers embarked at the port of embarkation;

(h) such other particulars, if any, as may be prescribed for unberthed passenger ships or pilgrim ships, as the case may be. 15

Officers entitled to grant certificates. 243. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 238 who is hereinafter referred to as the certifying officer. 20

Survey of ship. 244. After receiving the notice required by section 238, the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by a surveyor, who shall report to him whether the ship is, in his opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed: 25

Provided that he shall not cause a ship holding a certificate of survey or a safety certificate to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable grounds, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed. 30

Discretion as to grant of certificate B. 245. (1) The certifying officer shall not grant a certificate B if he has reason to believe that the weather conditions are likely to be adverse or that the ship has on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the unberthed passengers or pilgrims. 35

(2) Save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the certifying officer to grant or withhold the certificate* and when he withholds the certificate, the reasons for so doing shall be communicated to the person concerned. 40

(3) In the exercise of that discretion that officer shall be subject to the control of the Central Government, or of such authority as the Central Government may appoint in this behalf.

246. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to the persons on board thereof, a copy of certificate A granted under this Part in respect of the ship and shall keep that copy so posted up as long as it is in force.

Copy of certificate A to be exhibited.

247. (1) The master of an unberthed passenger ship or any contractor employed by him for the purpose shall not, without reasonable excuse, the burden of proving which shall lie upon him, omit to supply to any unberthed passenger the prescribed allowance of food, fuel and water, and the master of a pilgrim ship, or any contractor employed by him for the purpose shall, not without reasonable excuse, the burden of proving which shall lie upon him, omit to supply to any pilgrim the prescribed allowances of food and of water as required by the provisions of this Part.

Unberthed passengers or pilgrims to be supplied with prescribed provisions.

(2) Where, under the terms of the ticket issued to an unberthed passenger, he is not entitled to the supply of food by the master or owner or agent of the ship, sub-section (1) shall, in the case of such passenger, have effect as if the reference to "food" in that sub-section were omitted.

248. (1) An unberthed passenger ship or a pilgrim ship shall not carry a number of unberthed passengers or pilgrims, which is greater than the number allowed for the ship by or under this Part.

Number of passengers on board not to exceed that allowed by or under this Part.

(2) Any officer authorised in this behalf by the Central Government may cause all unberthed passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master, owner or agent of the ship if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

249. No master, owner or agent of an unberthed passenger ship or a pilgrim ship shall land any unberthed passenger or pilgrim at any port or place other than the port or place at which the unberthed passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident.

Unberthed passenger or pilgrim not to be landed at a place other than that at which he has contracted to Land.

Forwarding
of pas-
sengers by
Indian
consular
officers.

250. (1) If any unberthed passenger from a ship which is on a voyage from any port or place in India finds himself without any neglect or default of his own at any port or place outside India other than the port or place for which the ship was originally bound or at which he has contracted that he should land, the Indian consular officer at or near that port or place may forward the passenger to his intended destination, unless the master, owner or agent of the ship within forty-eight hours of the arrival of the passenger gives to that officer a written undertaking to forward the passenger within six weeks thereafter to his original destination and forwards him accordingly within that period. 10

(2) A passenger so forwarded by or by the authority of an Indian consular officer shall not be entitled to the return of his passage money or to any compensation for loss of passage.

Recovery of
expenses in-
curred in
forwarding
passengers.

251. (1) All expenses incurred under section 250 by an Indian consular officer in respect of the forwarding of a passenger to his destination including the cost of maintaining the passenger until forwarded to his destination shall be a debt due to the Central Government jointly and severally from the owner, charterer, agent and master of the ship on board which the passenger had embarked. 20

(2) In any proceeding for the recovery of that debt a certificate purporting to be under the hand of the Indian consular officer and stating the circumstances of the case and the total amount of the expenses shall be *prima facie* evidence of the amount of the expenses and of the fact that the same were duly incurred. 25

Ship not to
make voyage
in contra-
vention of
contract.

252. The master, owner or agent of an unberthed passenger ship or a pilgrim ship shall not, otherwise than by reason of perils of the sea or other unavoidable accident, allow the ship to touch at any port or place in contravention of any express or implied contract or engagement with the unberthed passengers or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise. 30

Information
to be sent to
ports of em-
barkation
and dis-
charge.

253. (1) The officer appointed by the Central Government in this behalf, at any port or place within India at which an unberthed passenger ship or a pilgrim ship touches or arrives, shall send any particulars which he may deem important respecting the unberthed passenger ship or pilgrim ship, and the unberthed passengers or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within India where the unberthed passengers or pilgrims or any of them embarked or are to be discharged. 40

(2) The officer aforesaid may go on board any ship referred to in sub-section (1) and inspect her in order to ascertain whether the provisions of this Act as to the number of unberthed passengers or pilgrims and other matters have been complied with.

- 5 254. In any proceeding for the adjudication of any penalty incurred under this Part, any document purporting to be a report of such particulars as are referred to in sub-section (1) of section 253, or a copy of the proceedings of any court of justice duly authenticated, and also any like document purporting to be made and signed by
10 an Indian consular officer shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.
- Reports, etc., under section 253 to be admissible in evidence.

Special provisions relating to unberthed passenger ships

- 15 255. (1) The master, owner or agent of an unberthed passenger ship departing or proceeding from any port or place in India appointed in this behalf by the Central Government under sub-section (1) of section 237 shall issue at such port or place in the prescribed manner an advertisement containing the particulars required to be stated in the notice under sub-section (1) of section 238; and such
20 advertisement shall be issued before such reasonable and sufficient interval as may be prescribed before the date of sailing of any such ship from such port or place.
- Destination of ship, time of sailing, etc., to be advertised.

(2) The Central Government may, by order in writing, exempt any class of ships from the operation of sub-section (1).

- 25 256. If any unberthed passenger ship performing a voyage between ports or places in India takes additional unberthed passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—
- Ship taking additional passengers at intermediate place.

- 30 (a) the number of unberthed passengers so taken on board; and

- 35 (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the unberthed passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the full number of unberthed passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate, but shall obtain from the certifying officer an endorsement on the certificate B showing the number of passengers taken on board, and the number of passengers discharged, at that port or place. 10

Statements
concerning
passengers.

257. (1) The master of an unberthed passenger ship departing or proceeding on a voyage from a port or place in India to a port or place outside India shall sign a statement in duplicate, specifying the number and the respective sexes of all the unberthed passengers, and the number of the crew, and shall deliver both copies to the certifying officer, who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one copy of the statement. 15

(2) In either of the following cases, namely:—

(a) if after the ship has departed or proceeded on such a voyage any additional unberthed passengers are taken on board at a port or place within India appointed under this Part for the embarkation of unberthed passengers; or

(b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional unberthed passengers at any port or place outside India; the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make an additional statement specifying the number and the respective sexes of all the additional passengers. 30

Death of
unberthed
passengers
on voyage.

258. (1) The master of any unberthed passenger ship performing a voyage between ports or places in India, shall, on arrival at her port of destination, notify to the certifying officer or such other officer as the Central Government may appoint in this behalf, the date and supposed cause of death of every unberthed passenger who may die on the voyage. 35

(2) The master of any unberthed passenger ship performing a voyage between a port or place in India and a port or place outside India, shall note in writing on the statement or the additional statement referred to in section 257 the date and supposed cause of death 40

of any unberthed passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land unberthed passengers, and before any passenger leaves the ship, produce the statement
5 with any additions made thereto—

(a) where such port or place is in India, to the certifying officer or such other officer as the Central Government may appoint in this behalf;

10 (b) where such port or place is outside India, to the Indian consular officer.

259. (1) Every ship carrying unberthed passengers and crew not exceeding one thousand in number, shall have on board as part of her complement at least one medical officer possessing such qualifications as may be prescribed.

Certain ships to carry medical officer and attendants.

15 (2) Every ship carrying unberthed passengers and crew exceeding one thousand in number shall, in addition to a medical officer, have on board as part of her complement such number of medical attendants as may be prescribed.

(3) Every ship carrying unberthed passengers shall be provided
20 with a hospital with such medical stores and equipment as may be prescribed.

260. No owner, agent or master of an unberthed passenger ship shall carry or cause to be carried from any port or place outside India to any port or place in India a number of passengers greater
25 than—

Bringing passengers from foreign port in excess of authorised number prohibited.

(a) the number allowed for the ship by or under this Part,
or

(b) the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure,
30 whichever number is less.

261. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify, there shall be levied on the passage money paid by every passenger carried by an unberthed passenger ship departing or proceeding from any port or
35 place in India a cess to be called the passenger welfare cess at such rate not exceeding five per cent. of the passage money as the Central Government may, by notification in the Official Gazette, specify, and different rates may be specified in respect of different classes of passengers and voyages.

Passenger welfare cess.

40 (2) The passenger welfare cess shall be collected by the owner or charterer of the unberthed passenger ship or the agent of the owner or charterer as an addition to the passage money and shall,

after deduction of such costs of collection, if any, as the Central Government may determine, be paid to such authority as the Central Government may specify.

(3) The proceeds of the passenger welfare cess shall, after due appropriation made by Parliament by law, be utilised for the purpose of providing amenities to passengers travelling by unberthed passenger ships. 5

Explanation.—In this section, “passage money” means the total amount of all charges of whatever nature payable by a passenger in respect of his carriage on an unberthed passenger ship, and includes the charges, if any, for provision of food on board the ship, but does not include the cess payable under this section. 10

Power to make rules as to unberthed passenger ships.

262. The Central Government may, subject to the condition of previous publication, make rules to regulate, in the case of unberthed passenger ships or any class of such ships, all or any of the following matters, namely:— 15

(a) the classification of voyages with reference to the distance between the port of departure and the port of destination, the duration of the voyage, or any other consideration which the Central Government may think fit to take into account for the purpose; 20

(b) the seasons of fair weather and seasons of foul weather for purposes of any voyage;

(c) the space to be allowed for unberthed passengers in respect of different classes of voyages and for seasons of fair and foul weather; 25

(d) the disallowance of any space considered unsuitable by the surveyor for the carriage of unberthed passengers;

(e) the space to be set apart for alleyways, passages and the like; 30

(f) the provision of airing space for unberthed passengers;

(g) the scale according to which dining rooms, latrines, wash places, baths, dressing rooms and other amenities are to be provided;

(h) the provision of separate accommodation for women and children; 35

(i) the prohibition or regulation of the carriage of cargo in any space reserved for passengers;

(j) where the deck on which unberthed passengers are accommodated is not covered with wood, the nature of the sheathing to be provided in the space reserved for passengers; 40

(k) the disposal of baggage of passengers on board ship and the provision of separate space in the between-decks for the storage of light baggage;

5 (l) the conditions under which passengers may be allowed to be carried in the upper deck in seasons of foul weather;

(m) the provision of bunks for unberthed passengers or for any proportion of such passengers on any specified classes of voyages, and the size and other particulars relating to the bunks to be so provided;

10 (n) the scale on which food, fuel and water are to be supplied to passengers or to any class of passengers, and the quality of the food, fuel and water;

15 (o) the nature and extent of hospital accommodation and the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(p) the licensing and appointment of medical officers and attendants in cases where they are required by this Part to be carried;

20 (q) the boats, anchors and cables to be provided on board;

(r) the instruments for purposes of navigation to be supplied;

(s) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

25 (t) the access of between-decks passengers to the upper deck;

(u) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf;

30 (v) the time within which any ship of a specified class is to depart or proceed on her voyage after commencing to take passengers on board;

(w) the conditions under which live-stock may be allowed to be carried;

35 (x) the licensing, supervision and control of persons engaged in assisting persons to obtain unberthed passenger accommodation in ships departing or proceeding from any port or place in India and the prohibition of unlicensed persons from being so engaged;

(y) the manner of collection of the passenger welfare cess and matters incidental thereto;

(z) generally to carry out the purposes of this Part relating to unberthed passenger ships.

Special provisions regarding pilgrim ships

5

Bunks to be provided for pilgrims.

263. (1) Every pilgrim ship shall provide for each pilgrim a bunk of the prescribed size and particulars.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures:

Provided that the upper deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim on board.

Hospital accommodation.

264. There shall be a hospital on board every pilgrim ship offering such conditions relating to security, health and space, and capable of accommodating such proportion, not exceeding five per cent. of the maximum number of pilgrims which the ship is certified to carry, as may be prescribed.

Statements concerning pilgrims to be delivered before ship departs.

265. The master of every pilgrim ship departing or proceeding from any port or place in India shall sign a statement in duplicate in the prescribed form specifying the total number of all the pilgrims embarked and the number of pilgrims of each sex embarked and the number of the crew and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place and such officer shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one copy of the statement.

Pilgrim ship taking additional pilgrims at intermediate places.

266. In either of the following cases, namely:—

(a) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within India appointed under this Part for the embarkation of pilgrims, or

(b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any port or place outside India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make an additional statement specifying the number and the respective sexes of all the additional pilgrims.

267. The master of every pilgrim ship shall note in writing on the copy of the statement or the additional statement referred to in section 265 or section 266, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place where it may be intended to discharge pilgrims, and before any pilgrims disembark, produce the statement, with any additions made thereto,—

Particulars relating to deaths of pilgrims on voyage.

(a) where such port or place is in India, to the certifying officer or such other officer as the Central Government may appoint in this behalf;

(b) where such port or place is outside India, to the Indian consular officer.

268. The master of every pilgrim ship arriving at any port or place in India at which it may be intended to discharge pilgrims, shall, before any pilgrims disembark, deliver a statement signed by him specifying the total number of all the pilgrims on board and the number of pilgrims of each sex and the number of the crew, and such other particulars as may be prescribed to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place.

Statement concerning pilgrims to be delivered before pilgrims disembark in India.

269. (1) Every pilgrim ship carrying pilgrims and crew not exceeding one thousand in number shall have on board a medical officer possessing such qualifications as may be prescribed, and, if the number of pilgrims and crew carried exceeds one thousand, a second medical officer similarly qualified and also in all cases such medical attendants as may be prescribed.

Certain pilgrim ships to carry medical officers and attendants.

(2) A medical officer of every pilgrim ship shall perform such duties and functions, keep such diaries and submit such reports or other returns, as may be prescribed.

(3) No medical officer or attendant on a pilgrim ship shall charge any pilgrim on such ship for his services.

270. (1) Port clearance shall not be granted from any port in India to any pilgrim ship unless the master, owner or agent and two sureties resident in India have executed, in favour of the Central Government, a joint and several bond for the sum of ten thousand rupees or has given such other guarantee or security as may be acceptable to that Government covering all voyages which may be made by the ship in the current pilgrim season, conditioned that—

Bond where pilgrim ship proceeds on outward voyage.

(a) the master and medical officer shall comply with the provisions of this Part and the rules made thereunder, and

(b) the master, owner or agent, shall pay any sum claimed by the Central Government under sub-section (2) of section 277.

(2) A bond, guarantee or security may be given under this section covering any or all of the pilgrim ships owned by one owner, 5 and in such cases the amount of the bond, guarantee or security shall be ten thousand rupees for each ship covered.

Medical inspection and permission required before embarkation of pilgrims.

271. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in India unless and until he has been medically inspected, at such time and place, and in such manner, as the Central 10 Government may fix in this behalf, nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

(2) The medical inspection of female pilgrims shall, subject to any rules which may be made under this Act and as far as may be practicable, be carried out by women. 15

(3) No pilgrim shall be received on board any pilgrim ship unless he produces a medical certificate signed by a person who is duly qualified to grant such certificate, showing that such pilgrim—

(a) has been inoculated against cholera within such period before the inspection, as may be prescribed; and 20

(b) has been vaccinated against smallpox within such period before the inspection as may be prescribed:

Provided that the officer making the inspection may dispense with the certificate of vaccination, if in his opinion the pilgrim has marks showing that he has had smallpox. 25

(4) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark. 30

(5) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by 35 the Central Government for the purpose, in such manner as may be prescribed.

Medical inspection after embarkation in certain cases.

272. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on 40 board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Central Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

273. No pilgrim shall be received on board any pilgrim ship at any port or place in India unless he—

Pilgrims to
arrange
return
passages.

(a) is in possession of a return ticket, or

(b) has deposited with the officer authorised in this behalf by the Central Government such sum for the purpose of defraying the cost of a return ticket as that Government may specify by notification in the Official Gazette:

Provided that the authorised officer may exempt any pilgrim from all or any of the aforesaid requirements, if he is satisfied that it is inexpedient, in the special circumstances of the case, to enforce them.

274. (1) Every pilgrim travelling on a pilgrim ship shall be entitled, on payment of his passage money and fulfilment of other prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be bound to produce it to such officers and on such occasions as may be prescribed and otherwise to deal with it in the prescribed manner:

Issue or
production
of tickets.

Provided that no pilgrim, who has not been exempted under the proviso to section 273, shall be given a ticket other than a return ticket unless he has made the deposit required by that section.

(2) Any ticket issued to a pilgrim for a voyage on a pilgrim ship shall entitle him to receive food and water, on the scale and of the quality prescribed and medicines free of further charge, throughout the voyage.

275. (1) Every pilgrim prevented from embarking under section 271, or removed from the ship under section 272, or otherwise prevented from proceeding shall be entitled to the refund of any passage money which he may have paid, and of any deposit which he may have made under section 273.

Refund of
passage
money
and deposits

(2) Any pilgrim who, within one year of his sailing from India, satisfies the Indian consular officer at Jeddah that he intends to return to India by a route other than the route by which he came from India, shall be entitled to a refund of any deposit made by him under section 273, or, if he is in possession of a return ticket, to a refund of half the passage money paid by him.

(3) Where any pilgrim dies in the Hedjaz or on the voyage thereto, any person nominated by him in this behalf in writing in

the prescribed manner, or, if no person has been so nominated, the legal representative of the pilgrim, shall be entitled to a refund of any deposit made by the pilgrim under section 273, or, if the pilgrim was in possession of a return ticket, to a refund of half the passage money paid by him.

5

(4) Where any pilgrim fails to return to India from the Hedjaz within one year of his sailing from India, or returns to India by a route other than the route by which he came from India, he or any person nominated by him in this behalf in writing in the prescribed manner shall be entitled to a refund of any deposit made 10 by such pilgrim under section 273, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage money paid by such pilgrim, except where such deposit or passage money has already been refunded under this section.

(5) Refunds under this section of deposits shall be subject to 15 such conditions and of passage money to such deductions and conditions as may be prescribed.

Disposal of
unclaimed
passage
money
and deposits.

276. If any pilgrim—

(a) who is entitled to a refund of passage money under sub-section (1) of section 275, does not claim such refund within the 20 prescribed period, or

(b) who has purchased a return ticket, does not on the basis of such ticket obtain a return passage from the Hedjaz within the prescribed period and the value of the return half of such ticket has not been refunded under section 275, or 25

(c) who is entitled under section 275 to a refund of any deposit made under section 273 does not claim such refund within the prescribed period,

such passage money or value or deposit shall, subject to the exercise of the rights conferred by sub-section (4) of section 275, be made 30 over to such authority administering any fund maintained for the assistance of pilgrims as the Central Government may, by general or special order, designate in this behalf.

Cost of
return
journey of
pilgrims on
ships other
than those
for which
return ticket
is available.

277. (1) The master, owner or agent of every pilgrim ship shall make all arrangements for ensuring the return of all pilgrims in 35 possession of a return ticket issued in India who are carried to the Hedjaz by such ship, within a period of ninety days after the Haj day in a year:

Provided that, for the purpose of computing the said period of ninety days, no period shall be taken into account during which the 40 ship is prevented from carrying pilgrims on the return passage by

reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war, disturbance or any other cause not arising from any act or default of the master, owner or agent.

- 5 (2) Where any such pilgrim who has notified to the prescribed authority in the prescribed manner his desire to embark for the return voyage is, owing to his inability to obtain accommodation within the period of ninety days aforesaid in a ship for which the return ticket is available, detained at Jeddah beyond the said period,
10 the master, owner or agent of the ship in which such pilgrim was carried to the Hedjaz shall pay to the Central Government in respect of such pilgrim such sum not exceeding double the sum received by the master, owner or agent in respect of the return ticket as the Central Government claims as the cost of repatriating the pilgrim,
15 together with a sum of rupees five for each day after the expiry of the period aforesaid during which the pilgrim has been detained at Jeddah.

- (3) A certificate of such detention purporting to be made and signed by the Indian consular officer at Jeddah shall be received in
20 evidence in any court in India without proof of the signature or of the official character of the person who has signed the same.

278. (1) The master, owner or agent of any ship which is intend-
ed to sail on a voyage as a pilgrim ship from any port or place in India shall, before advertising such ship for the conveyance of
25 pilgrims or offering to convey any pilgrim by such ship or selling or permitting any person to sell a passage ticket to any pilgrim for conveyance by such ship, supply to the officer appointed in this behalf (hereinafter referred to as the pilgrim officer) at the port or place from which the ship is to commence the voyage, and at each
30 port or place in India at which she is to touch for the purpose of embarking pilgrims, full particulars as to the name, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of ticket, the probable date on which the ship is to sail from that port or place, the ports,
35 if any, at which she is to touch, the place of her destination, and the probable date of her arrival thereat.

Notice of
sailing of
pilgrim ship.

- (2) The master, owner or agent shall supply to the pilgrim officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (1)
40 as that officer may in writing demand from him.

- (3) (a) The master, owner or agent of the ship shall advertise at such port or place and in such manner as may be prescribed—

- (i) the place of destination of the ship,

(ii) the price of each class of passage tickets which shall not be in excess of the price communicated to the pilgrim officer under sub-section (1), and

(iii) the provisional date of sailing from that port or place.

(b) The master, owner or agent shall also advertise the final date of sailing not less than fifteen days before such date. 5

(4) No master, owner or agent, shall—

(a) without reasonable cause, the burden of proving which shall lie upon him, fail or refuse to supply any particulars or information which he is by or under this section required to supply or supply false particulars or information; or 10

(b) advertise any ship for the conveyance of pilgrims, or offer to convey pilgrims by any ship, or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (1) and in accordance with the provisions of that sub-section; or 15

(c) advertise a price for passage tickets at the port or place in excess of the price communicated, to the pilgrim officer under sub-section (1); or 20

(d) offer to convey pilgrims by any ship from any port or place in India or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having advertised as required by clause (a) of sub-section (3) the matters specified in that clause; or 25

(e) sell or permit any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the pilgrim officer under sub-section (1).

Compensation for delay in sailing.

279. (1) If a pilgrim ship fails to proceed from any port or place on the date advertised under clause (b) of sub-section (3) of section 278 as the final date of sailing therefrom, the master, owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of three rupees for each completed day during which the sailing of the ship is delayed after that date: 35

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, and the burden of proving such cause shall lie on such master, owner or agent: 40

Provided further that where compensation has been paid or has become payable to any pilgrim in respect of delay in the sailing of the ship from any port or place and the sailing of the ship from any other port or place is thereafter delayed beyond the date advertised in that behalf, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(2) In the event of such failure, the master, owner or agent shall be bound forthwith to inform the pilgrim officer at the port or place at which the delay occurs of the number of passage tickets of each class which have been issued for the voyage on or before the advertised final date of sailing.

(3) Any sum payable as compensation under sub-section (1) shall be paid on behalf of the pilgrims entitled thereto to the pilgrim officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention:

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided:

Provided further that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Central Government may, by general or special order, designate in this behalf.

(4) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (3) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the pilgrim officer notice of his objection, together with a statement of the grounds thereof, and the pilgrim officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in deposit under sub-section (3), or refer the objection for decision to a presidency magistrate or a magistrate of the first class exercising jurisdiction at the port or place at which the ship is delayed, whose decision

on such reference shall be final; and there shall be refunded to the master, owner or agent any amount allowed to him by such decision.

(5) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under clause (b) of sub-section (3) of section 278 as the date of final sailing therefrom, the pilgrim officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port clearance to ships thereat, and such officer shall refuse port clearance to the pilgrim ship until the master, owner or agent produces to him a certificate of the pilgrim officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid.

Substitution
of ships.

280. Notwithstanding anything contained in section 278 or section 279, where any ship which has been advertised under section 278 for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised final date of sailing, the owner or agent may, with the permission in writing of the pilgrim officer, substitute for it any other ship which is capable of carrying not less than the same number of pilgrims of each class, and on such permission being given the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship.

Sanitary
taxes payable
by master
of pilgrim
Ship.

281. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited and such amount shall be included in the cost of the tickets issued to the pilgrims.

Power to
make rules
relating to
Pilgrim ships.

282. The Central Government may, subject to the condition of previous publication, make rules to regulate all or any of the following matters, namely:—

(a) the boats, anchors and cables to be provided on board pilgrim ships;

(b) the instruments to be supplied for purposes of navigation;

(c) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims;

(d) the scale on which, and the manner in which, cooked and uncooked food and water are to be supplied to pilgrims, and the quality of such food and water;

(e) the kinds of food to be provided for pilgrims on payment, in addition to the food to be supplied in accordance with

the rules made under clause (d), and the charges which may be made for the same;

(f) the quality, quantity and storage of the cargo to be carried;

5 (g) the allotment of the upper deck space between the various classes of pilgrims;

(h) the distribution or disposal of the baggage of pilgrims on board ship;

10 (i) the nature and extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board free of charge to pilgrims for maintaining health, cleanliness and decency;

15 (j) the form of the statements to be furnished by the master under sections 265 and 268, and the particulars to be entered therein;

20 (k) the appointment of medical officers and other attendants in cases where they are required by the provisions of this Part relating to pilgrim ships to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers;

(l) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;

(m) the manner in which, and the persons by whom, the medical inspection of women shall be carried out;

25 (n) the manner in which deposits shall be made for the purposes of section 273, and any matter in respect of which provision is, in the opinion of the Central Government, necessary or expedient for the purpose of giving effect to the provisions of that section;

30 (o) the manner in which provisional bookings may be made, the acceptance of deposits for such bookings and the forfeiture of any part of the deposit in cases in which any such bookings are cancelled;

35 (p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof;

40 (q) the refund of passage money and deposits under section 275 and the manner in which persons shall be nominated under that section for the purpose of entitling them to a refund;

(r) the period after which unclaimed passage money and deposits liable to be refunded shall be disposed of in the manner specified in section 276;

(s) the manner in which the dates of sailing shall be advertised under section 278; the appointment of pilgrim officers for the purposes of that section and sections 279 and 280; the manner in which payment shall be made under section 279 to pilgrims and to the pilgrim officer; and the procedure to be followed by masters, owners or agents and by pilgrim officers and magistrates in proceedings under that section; 10

(t) the functions of the master, medical officer and other ship's officers during the voyage;

(u) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf; 15

(v) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board;

(w) providing that a pilgrim shall not be received on board any pilgrim ship, unless he is in possession of a passport or a pilgrim's pass, regulating the issue of pilgrims' passes, and prescribing the form of and fees which may be charged for such passes; and 20

(x) generally, to carry out the provisions of this Part relating to pilgrim ships. 25

PART IX

SAFETY

Countries to which Load Line Convention or Safety Convention applies.

283. (1) The Central Government, if satisfied,—

(a) that the Government of any country has accepted or denounced the Load Line Convention or, as the case may be, the Safety Convention; or

(b) that the Load Line Convention or, as the case may be, the Safety Convention extends, or has ceased to extend to any territory;

may by notification in the Official Gazette, make a declaration to that effect 35

(2) Any declaration made by or on behalf of the Central Government before the commencement of this Act in any form whatsoever, that the Government of any country has accepted or denounced the Load Line Convention or that the said Convention extends or has
5 ceased to extend to any territory shall be deemed to have been made under sub-section (1).

Construction of ships

284. (1) The Central Government may make rules (in this Act
called the construction rules), prescribing the requirements that the
10 hull, equipment and machinery of Indian passenger ships shall comply with.

(2) The rules made under sub-section (1) shall include such requirements as appear to the Central Government to implement the provisions of the Safety Convention prescribing the requirements
15 that the hull, equipment and machinery of passenger ships shall comply with, except so far as those provisions are implemented by the rules for life saving appliances, the radio rules, the rules for direction finders or the collision regulations.

(3) The powers conferred on the Central Government by this
20 section shall be in addition to the powers conferred by any other provision enabling it to prescribe the requirements that passenger ships shall comply with.

Prevention of collisions

285. (1) The Central Government may make regulations for the
25 prevention of collisions at sea, and may thereby regulate the lights and shapes to be carried and exhibited, the fog and distress signals to be carried and used, and the steering and sailing rules to be observed by Indian ships and sailing vessels registered in India.

(2) The collision regulations, together with the provisions of this
30 Part relating thereto or otherwise relating to collisions, shall be observed by all foreign ships and sailing vessels within Indian jurisdiction, and in any case arising in any court in India concerning matters arising within Indian jurisdiction, such ships and sailing vessels shall, so far as respects the collision regulations and the said
35 provisions of this Act, be treated as if they were Indian ships or sailing vessels registered in India, as the case may be.

286. (1) The owner or master of every ship and the owner or
tindal of every sailing vessel to which section 285 applies shall obey
the collision regulations, and shall not carry or exhibit any lights
40 or shapes or use any fog or distress signals, other than those required by the said regulations.

(2) If any damage to person or property arises from the non-observance by any such ship or sailing vessel of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the ship or the sailing vessel, as the case may be, at the time unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary. 5

Inspectors
of lights and
shapes and
fog and dis-
tress signals.

287. (1) The Central Government may appoint persons to inspect in any port ships or sailing vessels to which the collision regulations apply, for the purpose of seeing that such ships or sailing vessels are properly provided with lights and shapes and with the means of making fog and distress signals, in pursuance of such regulations. 10

(2) If an inspector appointed under sub-section (1) finds that any ship or sailing vessel is not so provided, he shall give to the owner, master or tindal, notice in writing pointing out the deficiency, and also what, in his opinion, is requisite in order to remedy the same. 15

(3) Every notice so given shall be communicated in the prescribed manner to the customs collector at any port from which such ship or sailing vessel may seek to clear; and no customs collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship or sailing vessel is properly provided with lights and shapes and with the means of making fog and distress signals in pursuance of the said regulations. 20 25

Life saving appliances and fire appliances

Power to
make rules
as to life
saving
appliances.

288. (1) The Central Government may, subject to the condition of previous publication, make rules prescribing the life saving appliances to be carried by every Indian ship going to sea from any port or place in India. 30

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the arranging of ships into classes, having regard to the services in which they are employed, the nature and duration of the voyage and the number of persons carried; 35

(b) the number, description and mode of construction of the boats, life-rafts, line throwing appliances, life-jackets and life-buoys to be carried by ships according to the classes in which the ships are arranged; 40

(c) the equipment to be carried by any such boats and rafts and the method to be provided to get the boats and other life saving appliances into the water, including oil for use in stormy weather;

5 (d) the provision in ships of a proper supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(e) the quantity, quality and description of buoyant apparatus to be carried on board ships either in addition to or in substitution for boats, life-rafts, life-jackets and life-buoys;

10 (f) the position and means of securing the boats, life-rafts, life-jackets, life-buoys and buoyant apparatus;

(g) the marking of boats, life-rafts, and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them;

15 (h) the manning of life-boats and the qualifications and certificates of life-boatmen;

(i) the provision to be made for mustering the persons on board and for embarking them in the boats (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ships);

20 (j) the provision of suitable means situated outside the engine room whereby any discharge of water into the boats can be prevented;

25 (k) the assignment of specific duties to each member of the crew in case of emergency;

(l) the manner in which a notice given under section 287 or section 290 shall be communicated to the customs collector;

(m) the practice in ships of boat drills, and fire drills;

30 (n) the provision in ships of means of making effective distress signals by day and by night;

(o) the provision in ships, engaged on voyages in which pilots are likely to be embarked, of suitable pilot ladders, and of ropes, lights and other appliances designed to make the use of such ladders safe;

35 (p) the periodical examination of any appliances or equipment required by any rules made under this Act to be carried by ships; and

(q) the fees to be charged for the grant of any certificate under sub-section (3) of section 290.

Rules relat-
ing to fire
appliances.

289. The Central Government may make rules prescribing the methods to be adopted and the appliances to be carried by every Indian ship going to sea from any port or place in India for the prevention, detection and extinction of fire on the ship (hereinafter referred to as fire appliances).

5

Inspection of
life saving
appliances
and fire
appliances.

290. (1) A surveyor may, at any reasonable time, inspect any ship for the purpose of seeing that she is properly provided with life saving and fire appliances in conformity with the rules made under this Act.

(2) If the said surveyor finds that the ship is not so provided he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same. 10

(3) Every notice so given shall be communicated in the prescribed manner to the customs collector of any port at which the ship may seek to obtain a clearance and the ship shall be detained until a certificate signed by such surveyor is produced to the effect that the ship is properly provided with life saving and fire appliances in conformity with the said rules. 15

Installation of radio telegraphy, radio telephony and direction finders 20

Radio
require-
ments.

291. (1) Every Indian ship, being a passenger ship, and every other Indian ship of five hundred tons gross tonnage or more, shall, in accordance with the rules made under section 296, be provided with a radio installation and shall maintain a radio telegraph service or a radio telephone service of the prescribed nature and shall be provided with such certificated operators and watchers as may be prescribed. 25

Provided that the Central Government may, by notification in the Official Gazette, exempt from the obligation imposed by this section any ship or class of ships if it is of opinion that having regard to the nature of the voyage on which the ship or ships are engaged or other circumstances of the case, the provision of a radio installation is unnecessary or unreasonable. 30

(2) The radio installation required under the said rules to be provided for a passenger ship or for any other ship of sixteen hundred tons gross or more shall be a radio telegraph installation; and that required to be provided for a ship of less than sixteen hundred tons gross, other than a passenger ship, shall be either a 35

radio telegraph installation or a radio telephone installation at the option of the owner.

292. Every Indian ship of sixteen hundred tons gross or more shall be provided with a radio direction finder of the prescribed description.
5 description.

Radio direction finding apparatus.

293. (1) Every ship compulsorily equipped under the provisions of section 291 with a radio telegraph or radio telephone installation shall maintain in the radio telegraph or radio telephone room a radio log in which shall be entered such particulars relating to the operation of the radio telegraph or radio telephone installation and as to the maintenance of the radio telegraph or radio telephone service as may be prescribed.
10

(2) The provisions of section 215 shall apply to the radio log kept under this section as if it were an official log.

294. (1) A radio inspector may inspect any ship for the purpose of seeing that she is properly provided with a radio telegraph or radio telephone installation and certificated operators * * * in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to radio telegraphy or radio telephony and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship;
15 20 25

Powers of radio inspectors.

Provided that if a valid safety convention certificate is produced in respect of any ship other than an Indian ship, the inspection shall be limited to seeing that the ship is provided with a radio telegraph or radio telephone installation and that the number of certificated operators * * * corresponds substantially with the particulars stated in the certificate.
30

(2) If a radio inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.
35

(3) Every notice given under sub-section (2) shall be communicated in the prescribed manner to the customs collector of any port at which the ship may seek to obtain port clearance,

who shall order that the ship shall be detained until a certificate under the hand of a radio inspector is produced to the effect that the ship is properly provided with a radio telegraph or radio telephone installation and certified operators and watchers in conformity with this Part.

5

Application
of this
Part to ships
other than
Indian
ship

295. The provisions of this Part relating to radio telegraphy, radio telephony and direction finders shall apply to ships other than Indian ships while they are within any port in India in like manner as they apply to Indian ships.

Power to
make rules.

296. (1) The Central Government may make rules to carry out the purposes of this Part relating to radio telegraphy or radio telephony.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the nature of the radio telegraph or radio telephone installation and radio direction finding apparatus to be provided and of the service to be maintained, the form of the radio log and the particulars to be entered therein, and the number, grades and qualifications of certified operators * * * to be carried;

15
20

(b) the manner in which a notice given under section 294 shall be communicated to the customs collector:

(c) the charging of fees for the grant of the certificate referred to in sub-section (3) of section 294, the amount of such fees and the manner in which they shall be recoverable.

25

Signalling lamps

Signalling
lamps.

297. Every Indian ship exceeding one hundred and fifty tons gross shall, when proceeding to sea from any port or place in India to any port or place outside India, be provided with a signalling lamp of the type approved by the Central Government.

30

Stability information

Information
about ship's
stability

298. (1) There shall be carried on board every Indian ship whose keel was laid after the 15th day of June, 1953, such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.

35

(2) The said information shall be in such form as may be approved by the Central Government (which may approve the provision of the information in the form of a diagram or drawing only) and shall be based on the determination of the ship's stability by means of an inclining test of the ship:

Provided that the Central Government may allow the information to be based on a similar determination of the stability of a sister ship.

(3) When any information under this section is provided for any ship, the owner shall send a copy thereof to the Director-General.

(4) It is hereby declared that for the purpose of section 208 (which requires documents relating to navigation to be delivered by the master of a ship to his successor) information under this section shall be deemed to be a document relating to the navigation of the ship.

Safety certificates, safety equipment certificates, safety radio telegraphy certificates, safety radio telephony certificates, exemption certificates, etc.

299. (1) Where, on receipt of a declaration of survey granted under Part VIII in respect of a passenger ship, the Central Government is satisfied that the ship complies with the construction rules and with the provisions of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation applicable to such ship and is provided with lights and shapes and the means of making fog and distress signals required by the collision regulations, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a safety certificate.

Safety certificates and qualified safety certificates for passenger ships.

(2) Where on receipt of a declaration of survey granted under Part VIII in respect of a passenger ship the Central Government is satisfied that there is in force in respect of the ship an exemption certificate granted under section 302 and that the ship complies with all the requirements referred to in sub-section (1) other than those from which the ship is exempt under that certificate, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a qualified safety certificate.

300. (1) If in respect of any Indian ship of five hundred tons gross or more, not being a passenger ship, the Central Government is satisfied that the ship complies with the provisions of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation applicable to such ship and is provided with lights and shapes and

Safety equipment and equipment certificates for ships other than passenger ships.

the means of making fog and distress signals required by the collision regulations, the Central Government may issue in respect of the ship—

(a) where the ship performs voyages between ports or places in India and ports or places outside India, a certificate in the prescribed form to be called a safety equipment certificate; 5

(b) where the ship performs voyages only between ports or places in India, a certificate in the prescribed form to be called an equipment certificate. 10

(2) Where in respect of any such ship as is referred to in sub-section (1), there is in force an exemption certificate granted under section 302 and the Central Government is satisfied that the ship complies with all the requirements referred to in that sub-section other than those from which the ship is exempt under that certificate, the Central Government may issue a certificate in the prescribed form to be called a qualified safety equipment certificate or a qualified equipment certificate, as the case may be. 15

Radio tele-
graphy and
telephony
certificates.

301. The owner or master of any Indian ship, not being a passenger ship, which is required by the provisions of section 291 to be provided with a radio telegraphy or radio telephony installation shall, if the Central Government is satisfied that the ship complies with all the provisions of this Act and the rules made thereunder relating to radio telegraphy or radio telephony applicable to such ship, receive— 25

(a) in the case of a ship performing voyages between ports in India and ports outside India, a certificate in the prescribed form to be called a safety radio telegraphy certificate, or as the case may be, a safety radio telephony certificate;

(b) in the case of a ship performing voyages only between ports in India, a certificate in the prescribed form to be called a radio telegraphy certificate, or as the case may be, a radio telephony certificate. 30

Exemption
certificates.

302. The owner or master of an Indian ship which is exempt from any of the provisions of the construction rules or of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation shall, on application to the officer appointed in this behalf by the Central Government, receive from such officer a certificate in the prescribed form to be called an exemption certificate. 35

303. (1) A safety equipment certificate, a qualified safety equipment certificate, an equipment certificate and a qualified equipment certificate issued under this Part shall be in force for twenty-four months from the date of its issue or for such shorter period as may be specified in the certificate.

Duration of certificates.

(2) Any certificate issued under this Part not specified in subsection (1) shall be in force for twelve months from the date of its issue or for such shorter period as may be specified in the certificate.

10 (3) The Central Government or any person authorised by it in this behalf may grant an extension of any certificate issued under this Part in respect of an Indian ship for a period not exceeding one month from the date when the certificate would but for the extension have expired, or if the ship is absent from India on that date, for a period not exceeding five months from that date.

15 (4) Notwithstanding anything contained in this section a certificate issued under this Part shall not remain in force after notice is given by the authority issuing the certificate to the owner or master of the ship in respect of which it has been issued that that authority has cancelled the certificate.

20 304. (1) If an Indian ship in respect of which a safety certificate issued under section 299 is in force has on board in the course of a particular voyage a total number of persons less than the number stated in the certificate to be the number for which the life saving appliances on the ship provide, the owner or master of the ship may
25 obtain from the authority issuing the certificate, or any person authorised by the authority for the purpose, a memorandum to be attached to the certificate stating the total number of persons carried on the ship on that voyage, and the modifications which may be made for the purpose of that voyage in the particulars with respect to life
30 saving appliances stated in the certificate.

Modification of safety convention certificates as respects life saving appliances.

(2) Where a valid safety convention certificate is produced in respect of a passenger ship other than an Indian ship and there is attached to the certificate a memorandum which—

35 (a) has been issued by or under the authority of the Government of the country in which the ship is registered, and

(b) modifies for the purpose of any particular voyage, in view of the number of persons actually carried on that voyage, the particulars stated in the certificate with respect to life saving appliances,

40 the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum;

Recognition
of certifi-
cates issued
outside India.

305. A valid safety convention certificate issued in respect of a ship other than an Indian ship by the Government of the country to which the ship belongs shall, subject to such rules as the Central Government may make in this behalf, have the same effect in India as the corresponding certificate issued in respect of an Indian ship under this Part. 5

Issue of
certificates
to foreign
ships in
India and
Indian ships
in foreign
countries.

306. (1) The Central Government may, at the request of the Government of a country to which the Safety Convention applies, cause an appropriate safety convention certificate to be issued in respect of a ship registered in that country, if it is satisfied in like manner as in the case of an Indian ship that such certificate can properly be issued, and, where a certificate is issued at such a request, it shall contain a statement that it has been so issued. 10

(2) The Central Government may request the Government of a country to which the Safety Convention applies, to issue an appropriate safety convention certificate in respect of an Indian ship and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purpose of this Act as if it had been issued by the Central Government. 15

Prohibition
on proceed-
ing to sea
without
certificates.

307. (1) No Indian passenger ship shall proceed on a voyage from any port or place in India to any port or place outside India unless there is in force in respect of the ship either— 20

(a) a safety certificate issued under section 299; or

(b) a qualified safety certificate issued under section 299 and an exemption certificate issued under section 302; 25

being a certificate which, by the terms thereof is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(2) No sea-going Indian ship, of five hundred tons gross or more, not being a passenger ship, shall proceed on a voyage from any place in India to any place outside India unless there is in force in respect of the ship— 30

(a) such certificate or certificates as would be required in her case by the provisions of sub-section (1) if she were a passenger ship, or 35

(b) a safety equipment certificate issued under section 300 and a safety radio telegraphy certificate or, as the case may be, a safety radio telephony certificate issued under section 301, or

(c) a qualified safety equipment certificate issued under section 300 and an exemption certificate issued under section 302 40

being certificates which by the terms thereof are applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(3) No sea-going Indian ship of five hundred tons gross or more, not being a passenger ship, shall proceed on a voyage between ports or places in India unless there is in force in respect of the ship—

- (a) an equipment certificate issued under section 300;
- (b) a qualified equipment certificate issued under section 300 and an exemption certificate issued under section 302;
- (c) a radio telegraphy certificate or a radio telephony certificate issued under section 301 or an exemption certificate issued under section 302;

being a certificate which by the terms thereof is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(4) The master of every ship to which this section applies shall produce to the customs collector from whom a port clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port clearance shall not be granted and the ship may be detained until the said certificate or certificates are so produced.

308. (1) The master of every ship other than an Indian ship being a passenger ship or being a ship of five hundred tons gross or more belonging to a country to which the Safety Convention applies, shall produce a valid safety convention certificate to the customs collector from whom a clearance for the ship is demanded in respect of a voyage from a port or place in India to a port or place outside India and a clearance shall not be granted and the ship may be detained until such a certificate is so produced.

Production of certificates by ships other than Indian ships.

(2) Where a valid safety convention certificate is produced in respect of a ship other than an Indian ship, the ship shall not be deemed to be unsafe for the purpose of section 342 by reason of the defective condition of her hull, equipment or machinery unless it appears that the ship cannot proceed to sea without danger to the passengers or crew owing to the fact that the actual condition of the ship does not correspond substantially with the particulars stated in the certificate.

309. The provisions of sections 228 to 231 (inclusive) shall apply to and in relation to every certificate issued by the Central Government under sections 299, 300, 301 and 302 in the same manner as they apply to and in relation to a certificate of survey.

Application of certain sections to certificates.

Load lines

Ships exempt
from pro-
visions rela-
ting to load
lines.

310. (1) Save as otherwise provided in this section, the provisions of this Part relating to load lines shall apply to all sailing vessels as they apply to ships, and accordingly, the expression "ship" in the said provisions of this Part shall be construed as including a sailing vessel.

(2) The provisions of this Part relating to load lines shall not apply to—

(a) any sailing vessel of less than one hundred and fifty tons gross employed in plying coastwise between ports situated within India, Pakistan, Burma and Ceylon;

(b) any ship solely engaged in fishing;

(c) any pleasure yacht.

(3) The Central Government may, on such conditions as it may think fit, exempt from the provisions of this Part relating to load lines—

(a) any ship plying between the near neighbouring ports of two or more countries, if the Central Government and the Governments of those countries are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply to ships so plying the provisions of this Part relating to load lines;

(b) any ship plying between near neighbouring ports of the same country, if the Central Government is satisfied as aforesaid;

(c) wooden ships of primitive build, if the Central Government considers that it would be unreasonable or impracticable to apply the said provisions to them;

(d) any class of coasting ships of less than one hundred and fifty tons gross which do not carry cargo.

Power to
make rules
as to load
lines.

311. The Central Government may, subject to the condition of previous publication, make rules (hereafter in this Act referred to as "the load line rules") regulating the survey of ships for the purpose of assignment and marking of load lines and prescribing the conditions (hereafter in this Act referred to as "the conditions of assignment") on which load lines may be assigned.

Marking of
deck line
and load
lines.

312. (1) No Indian ship, being a ship of which the keel was laid after the 30th day of June, 1932, and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

(a) the ship has been surveyed in accordance with the load line rules;

(b) the ship complies with the conditions of assignment;

5 (c) the ship is marked on each side with a mark (hereafter in this Act referred to as a "deck line") indicating the position of the uppermost complete deck as defined by the load line rules, and with marks (hereafter in this Act referred to as "load lines") indicating the several maximum depths to which the ship can be safely loaded in various circumstances prescribed by the load line rules;

10 (d) the deck line and load lines are of the description required by the load line rules, the deck line is in the position required by those rules, and the load lines are of the number required by such of those rules as are applicable to the ship; and

(e) the load lines are in the position required by such of the load line rules as are applicable to the ship.

15 (2) No Indian ship, being a ship of which the keel was laid before the 1st day of July, 1932, and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

(a) the ship has been surveyed and marked in accordance with clauses (a), (c) and (d) of sub-section (1);

20 (b) the ship complies with the conditions of assignment in principle and also in detail so far as, in the opinion of the Central Government, is reasonable and practicable having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by the arrangements, fittings and appliances existing on the ship
25 at the time when she is first surveyed under this section; and

30 (c) the load lines are either in the position required by clause (e) of sub-section (1) or in the position required by the tables used by the Board of Trade of the United Kingdom on the 31st day of December, 1906, for fixing the position of load lines, subject to such modifications of those tables and of the application thereof as were in force immediately before the 5th day of July, 1930.

35 (3) Any ship attempting to proceed to sea without being surveyed and marked as required by this section may be detained until she has been surveyed and marked, and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purpose of section 336.

Submersion
of load lines.

313. (1) An Indian ship (not being exempt from the provisions of this Part relating to load lines) shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded. 5

(2) Without prejudice to any other proceedings under this Act, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded. 10

Maintenance
of load line
marks.

314. (1) No owner or master of an Indian ship which has been marked in accordance with the foregoing provisions of this Part, shall without reasonable cause, fail to keep the ship so marked.

(2) No person shall conceal, remove, alter, deface or obliterate, or suffer any person under his control to conceal, remove, alter, deface or obliterate any mark placed on any such ship in accordance with the foregoing provisions of this Part except with the authority of a person entitled under the load line rules to authorise the alteration of the mark or except for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right. 15 20

Inspection
of ships
with res-
pect to load
lines.

315. A surveyor may inspect any Indian ship for the purpose of seeing that the provisions of this Part relating to load lines have been complied with and for this purpose may go on board the ship at all reasonable times and do all things necessary for the proper inspection of the ship and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the ship. 25

Load line certificates

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Issue of
load line
certificates
and effect
thereof.

316. (1) Where an Indian ship has been surveyed and marked in accordance with the foregoing provisions of this Part and complies with the conditions of assignment to the extent required in her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the prescribed fee,— 35

(a) in the case of a ship of one hundred and fifty tons gross or more which carries cargo or passengers, a certificate to be called "an international load line certificate"; and

(b) in the case of any other ship, a certificate to be called "an Indian load line certificate". 40

(2) The said information shall be in such form as may be approved by the Central Government (which may approve the provision of the information in the form of a diagram or drawing only) and shall be based on the determination of the ship's stability by means of an inclining test of the ship:

Provided that the Central Government may allow the information to be based on a similar determination of the stability of a sister ship.

(3) When any information under this section is provided for any ship, the owner shall send a copy thereof to the Director-General.

(4) It is hereby declared that for the purpose of section 208 (which requires documents relating to navigation to be delivered by the master of a ship to his successor) information under this section shall be deemed to be a document relating to the navigation of the ship.

Safety certificates, safety equipment certificates, safety radio telegraphy certificates, safety radio telephony certificates, exemption certificates, etc.

299. (1) Where, on receipt of a declaration of survey granted under Part VIII in respect of a passenger ship, the Central Government is satisfied that the ship complies with the construction rules and with the provisions of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation applicable to such ship and is provided with lights and shapes and the means of making fog and distress signals required by the collision regulations, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a safety certificate.

Safety certificates and qualified safety certificates for passenger ships.

(2) Where on receipt of a declaration of survey granted under Part VIII in respect of a passenger ship the Central Government is satisfied that there is in force in respect of the ship an exemption certificate granted under section 302 and that the ship complies with all the requirements referred to in sub-section (1) other than those from which the ship is exempt under that certificate, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a qualified safety certificate.

300. (1) If in respect of any Indian ship of five hundred tons gross or more, not being a passenger ship, the Central Government is satisfied that the ship complies with the provisions of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation applicable to such ship and is provided with lights and shapes and

Safety equipment and equipment certificates for ships other than passenger ships.

the means of making fog and distress signals required by the collision regulations, the Central Government may issue in respect of the ship—

(a) where the ship performs voyages between ports or places in India and ports or places outside India, a certificate in the prescribed form to be called a safety equipment certificate; 5

(b) where the ship performs voyages only between ports or places in India, a certificate in the prescribed form to be called an equipment certificate. 10

(2) Where in respect of any such ship as is referred to in sub-section (1), there is in force an exemption certificate granted under section 302 and the Central Government is satisfied that the ship complies with all the requirements referred to in that sub-section other than those from which the ship is exempt under that certificate, the Central Government may issue a certificate in the prescribed form to be called a qualified safety equipment certificate or a qualified equipment certificate, as the case may be. 15

Radio tele-
graphy and
telephony
certificates,

301. The owner or master of any Indian ship, not being a passenger ship, which is required by the provisions of section 291 to be provided with a radio telegraphy or radio telephony installation shall, if the Central Government is satisfied that the ship complies with all the provisions of this Act and the rules made thereunder relating to radio telegraphy or radio telephony applicable to such ship, receive— 25

(a) in the case of a ship performing voyages between ports in India and ports outside India, a certificate in the prescribed form to be called a safety radio telegraphy certificate, or as the case may be, a safety radio telephony certificate;

(b) in the case of a ship performing voyages only between ports in India, a certificate in the prescribed form to be called a radio telegraphy certificate, or as the case may be, a radio telephony certificate.

Exemption
certificates.

302. The owner or master of an Indian ship which is exempt from any of the provisions of the construction rules or of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation shall, on application to the officer appointed in this behalf by the Central Government, receive from such officer a certificate in the prescribed form to be called an exemption certificate. 35

303. (1) A safety equipment certificate, a qualified safety equipment certificate, an equipment certificate and a qualified equipment certificate issued under this Part shall be in force for twenty-four months from the date of its issue or for such shorter period as may be specified in the certificate.

Duration of certificates.

(2) Any certificate issued under this Part not specified in subsection (1) shall be in force for twelve months from the date of its issue or for such shorter period as may be specified in the certificate.

10 (3) The Central Government or any person authorised by it in this behalf may grant an extension of any certificate issued under this Part in respect of an Indian ship for a period not exceeding one month from the date when the certificate would but for the extension have expired, or if the ship is absent from India on that date, for a period not exceeding five months from that date.

15 (4) Notwithstanding anything contained in this section a certificate issued under this Part shall not remain in force after notice is given by the authority issuing the certificate to the owner or master of the ship in respect of which it has been issued that that authority has cancelled the certificate.

20 304. (1) If an Indian ship in respect of which a safety certificate issued under section 299 is in force has on board in the course of a particular voyage a total number of persons less than the number stated in the certificate to be the number for which the life saving appliances on the ship provide, the owner or master of the ship may obtain from the authority issuing the certificate, or any person authorised by the authority for the purpose, a memorandum to be attached to the certificate stating the total number of persons carried on the ship on that voyage, and the modifications which may be made for the purpose of that voyage in the particulars with respect to life saving appliances stated in the certificate.

Modification of safety convention certificates as respects life saving appliances.

(2) Where a valid safety convention certificate is produced in respect of a passenger ship other than an Indian ship and there is attached to the certificate a memorandum which—

35 (a) has been issued by or under the authority of the Government of the country in which the ship is registered, and

(b) modifies for the purpose of any particular voyage, in view of the number of persons actually carried on that voyage, the particulars stated in the certificate with respect to life saving appliances,

40 the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

Recognition
of certifi-
cates issued
outside India.

305. A valid safety convention certificate issued in respect of a ship other than an Indian ship by the Government of the country to which the ship belongs shall, subject to such rules as the Central Government may make in this behalf, have the same effect in India as the corresponding certificate issued in respect of an Indian ship under this Part. 5

Issue of
certificates
to foreign
ships in
India and
Indian ships
in foreign
countries.

306. (1) The Central Government may, at the request of the Government of a country to which the Safety Convention applies, cause an appropriate safety convention certificate to be issued in respect of a ship registered in that country, if it is satisfied in like manner as in the case of an Indian ship that such certificate can properly be issued, and, where a certificate is issued at such a request, it shall contain a statement that it has been so issued. 10

(2) The Central Government may request the Government of a country to which the Safety Convention applies, to issue an appropriate safety convention certificate in respect of an Indian ship and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purpose of this Act as if it had been issued by the Central Government. 15

Prohibition
on proceed-
ing to sea
without
certificates.

307. (1) No Indian passenger ship shall proceed on a voyage from any port or place in India to any port or place outside India unless there is in force in respect of the ship either— 20

(a) a safety certificate issued under section 299; or

(b) a qualified safety certificate issued under section 299 and an exemption certificate issued under section 302; 25

being a certificate which by the terms thereof is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(2) No sea-going Indian ship, of five hundred tons gross or more, not being a passenger ship, shall proceed on a voyage from any place in India to any place outside India unless there is in force in respect of the ship— 30

(a) such certificate or certificates as would be required in her case by the provisions of sub-section (1) if she were a passenger ship, or 35

(b) a safety equipment certificate issued under section 300 and a safety radio telegraphy certificate or, as the case may be, a safety radio telephony certificate issued under section 301, or

(c) a qualified safety equipment certificate issued under section 300 and an exemption certificate issued under section 302 40

being certificates which by the terms thereof are applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(3) No sea-going Indian ship of five hundred tons gross or more, not being a passenger ship, shall proceed on a voyage between ports or places in India unless there is in force in respect of the ship—

(a) an equipment certificate issued under section 300;

(b) a qualified equipment certificate issued under section 300 and an exemption certificate issued under section 302;

(c) a radio telegraphy certificate or a radio telephony certificate issued under section 301 or an exemption certificate issued under section 302;

being a certificate which by the terms thereof is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(4) The master of every ship to which this section applies shall produce to the customs collector from whom a port clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port clearance shall not be granted and the ship may be detained until the said certificate or certificates are so produced.

308. (1) The master of every ship other than an Indian ship being a passenger ship or being a ship of five hundred tons gross or more belonging to a country to which the Safety Convention applies, shall produce a valid safety convention certificate to the customs collector from whom a clearance for the ship is demanded in respect of a voyage from a port or place in India to a port or place outside India and a clearance shall not be granted and the ship may be detained until such a certificate is so produced.

Production of certificates by ships other than Indian ships.

(2) Where a valid safety convention certificate is produced in respect of a ship other than an Indian ship, the ship shall not be deemed to be unsafe for the purpose of section 342 by reason of the defective condition of her hull, equipment or machinery unless it appears that the ship cannot proceed to sea without danger to the passengers or crew owing to the fact that the actual condition of the ship does not correspond substantially with the particulars stated in the certificate.

309. The provisions of sections 228 to 231 (inclusive) shall apply to and in relation to every certificate issued by the Central Government under sections 299, 300, 301 and 302 in the same manner as they apply to and in relation to a certificate of survey.

Application of certain sections to certificates.

Load lines

Ships exempt
from pro-
visions rela-
ting to load
lines.

310. (1) Save as otherwise provided in this section, the provisions of this Part relating to load lines shall apply to all sailing vessels as they apply to ships, and accordingly, the expression "ship" in the said provisions of this Part shall be construed as including a sailing vessel.

(2) The provisions of this Part relating to load lines shall not apply to—

(a) any sailing vessel of less than one hundred and fifty tons gross employed in plying coastwise between ports situated within India, Pakistan, Burma and Ceylon;

(b) any ship solely engaged in fishing;

(c) any pleasure yacht.

(3) The Central Government may, on such conditions as it may think fit, exempt from the provisions of this Part relating to load lines—

(a) any ship plying between the near neighbouring ports of two or more countries, if the Central Government and the Governments of those countries are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply to ships so plying the provisions of this Part relating to load lines;

(b) any ship plying between near neighbouring ports of the same country, if the Central Government is satisfied as aforesaid;

(c) wooden ships of primitive build, if the Central Government considers that it would be unreasonable or impracticable to apply the said provisions to them;

(d) any class of coasting ships of less than one hundred and fifty tons gross which do not carry cargo.

Power to
make rules
as to load
lines.

311. The Central Government may, subject to the condition of previous publication, make rules (hereafter in this Act referred to as "the load line rules") regulating the survey of ships for the purpose of assignment and marking of load lines and prescribing the conditions (hereafter in this Act referred to as "the conditions of assignment") on which load lines may be assigned.

Marking of
deck line
and load
lines.

312. (1) No Indian ship, being a ship of which the keel was laid after the 30th day of June, 1932, and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

(a) the ship has been surveyed in accordance with the load line rules;

(b) the ship complies with the conditions of assignment;

5 (c) the ship is marked on each side with a mark (hereafter in this Act referred to as a "deck line") indicating the position of the uppermost complete deck as defined by the load line rules, and with marks (hereafter in this Act referred to as "load lines") indicating the several maximum depths to which the ship can be safely loaded in various circumstances prescribed by the load line rules;

10 (d) the deck line and load lines are of the description required by the load line rules, the deck line is in the position required by those rules, and the load lines are of the number required by such of those rules as are applicable to the ship; and

(e) the load lines are in the position required by such of the load line rules as are applicable to the ship.

15 (2) No Indian ship, being a ship of which the keel was laid before the 1st day of July, 1932, and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

(a) the ship has been surveyed and marked in accordance with clauses (a), (c) and (d) of sub-section (1);

20 (b) the ship complies with the conditions of assignment in principle and also in detail so far as, in the opinion of the Central Government, is reasonable and practicable having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by the arrangements, fittings and appliances existing on the ship
25 at the time when she is first surveyed under this section; and

(c) the load lines are either in the position required by clause (e) of sub-section (1) or in the position required by the tables
30 used by the Board of Trade of the United Kingdom on the 31st day of December, 1906, for fixing the position of load lines, subject to such modifications of those tables and of the application thereof as were in force immediately before the 5th day of July, 1930.

(3) Any ship attempting to proceed to sea without being surveyed
35 and marked as required by this section may be detained until she has been surveyed and marked, and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purpose of section 336.

Subversion
of load lines.

313. (1) An Indian ship (not being exempt from the provisions of this Part relating to load lines) shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded. 5

(2) Without prejudice to any other proceedings under this Act, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded. 10

Maintenance
of load line
marks.

314. (1) No owner or master of an Indian ship which has been marked in accordance with the foregoing provisions of this Part, shall without reasonable cause, fail to keep the ship so marked.

(2) No person shall conceal, remove, alter, deface or obliterate, or suffer any person under his control to conceal, remove, alter, deface or obliterate any mark placed on any such ship in accordance with the foregoing provisions of this Part except with the authority of a person entitled under the load line rules to authorise the alteration of the mark or except for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right. 15 20

Inspection
of ships
with respect
to load
lines.

315. A surveyor may inspect any Indian ship for the purpose of seeing that the provisions of this Part relating to load lines have been complied with and for this purpose may go on board the ship at all reasonable times and do all things necessary for the proper inspection of the ship and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the ship. 25

Load line certificates

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Issue of
load line
certificates
and effect
thereof.

316. (1) Where an Indian ship has been surveyed and marked in accordance with the foregoing provisions of this Part and complies with the conditions of assignment to the extent required in her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the prescribed fee,— 35

(a) in the case of a ship of one hundred and fifty tons gross or more which carries cargo or passengers, a certificate to be called "an international load line certificate"; and

(b) in the case of any other ship, a certificate to be called "an Indian load line certificate". 40

(2) Every such certificate shall be issued either by the Central Government or by such other person as may be authorised in that behalf by the Central Government and shall be issued in such form and manner as may be prescribed by the load line rules.

5 (3) The Central Government may request the Government of a country to which the Load Line Convention applies, to issue a load line certificate in the form of an international load line certificate under that Convention in respect of an Indian ship and a certificate issued in pursuance of such a request and containing a statement
10 that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the Central Government.

(4) Where a load line certificate, issued in pursuance of this section and for the time being in force, is produced in respect of a ship, the ship shall, for the purposes of the foregoing provisions of
15 this Part, be deemed to have been surveyed as required by those provisions, and if the deck line and load lines on the ship are of the number and description required by the load line rules and the position of the deck line and load lines corresponds with the position specified in the certificate, the ship shall be deemed to be marked
20 as required by those provisions.

317. (1) Every load line certificate issued by or under the authority of the Central Government, shall, unless it is renewed in accordance with the provisions of sub-section (2), expire at the end of such period, not exceeding five years from the date of its issue,
25 as may be specified therein.

Duration,
renewal and
cancellation
of certifi-
cates.

(2) Any such load line certificate may, after a survey not less effective than the survey required by the load line rules before the issue of the certificate, be renewed from time to time by the Central Government or by any person authorised by the Central Government
30 to issue a load line certificate, for such period not exceeding five years on any occasion as the Central Government or the person renewing the certificate thinks fit.

(3) The Central Government may cancel any such load line certificate in force in respect of a ship if it has reason to believe that—

35 (a) material alterations have taken place in the hull or superstructures of the ship which affect the position of the load lines; or

(b) the fittings and appliances for the protection of openings, the guard rails, the freeing ports or the means of access to the

crew's quarters have not been maintained on the ship in as effective a condition as they were in when the certificate was issued; or

(c) the marking of the deck line and load lines on the ship have not been properly maintained: 5

Provided that no such order shall be made unless the person concerned has been given an opportunity of making a representation against the order proposed.

(4) The owner of every ship in respect of which any such certificate has been issued shall, so long as the certificate remains in force, 10 cause the ship to be surveyed in the prescribed manner once at least in each year after the issue of the certificate for the purpose of seeing whether the certificate should, having regard to sub-section (3), remain in force, and if the ship is not so surveyed, the Central Government may cancel the certificate : 15

Provided that the Central Government, if it thinks fit in any particular case, may extend the said period of one year.

(5) Where any such load line certificate has expired or been cancelled, the Central Government may require the owner or master of the ship to which the certificate relates to deliver up the certifi- 20 cate as it directs and the ship may be detained until such requirement has been complied with.

(6) On the survey of any ship in pursuance of this section there shall be paid by the owner of the ship such fee as may be prescribed.

Ships not to proceed to sea without certificate. 318. (1) No Indian ship shall proceed to sea unless there is in 25 force in respect of the ship a load line certificate issued under the provisions of section 316.

(2) The master of every Indian ship shall produce to the customs collector, from whom a port clearance for the ship is demanded, the certificate which is required by the foregoing provisions of this 30 section to be in force when the ship proceeds to sea, and the port clearance shall not be granted, and the ship may be detained, until that certificate is so produced.

Publication of load line certificate and particulars relating to depth of loading. 319. (1) When a load line certificate has been issued in pursuance of the foregoing provisions of this Part in respect of an Indian ship 35 other than a home-trade ship of less than two hundred tons gross—

(a) the owner of the ship shall forthwith on the receipt of the certificate cause it to be posted up in some conspicuous place on board the ship, and to be kept so posted up and legible

so long as the certificate remains in force and the ship is in use; and

(b) the master of the ship, before making any other entry in any official log book, shall enter or cause to be entered therein the particulars as to the position of the deck line and load lines specified in the certificate.

(2) Before any such ship leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master thereof shall—

(a) enter or cause to be entered in the official log book such particulars relating to the depth to which the ship is for the time being loaded as the Central Government may by rules made in this behalf prescribe; and

(b) cause a notice, in such form and containing such of the said particulars as may be required by the said rules, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place:

Provided that the Central Government may by the said rules exempt home-trade ships or any class of home-trade ships from the requirements of clause (b) of this sub-section.

320. (1) Before an agreement with the crew of any ship in respect of which a load line certificate is in force, is signed by any member of the crew, the master of the ship shall insert in the agreement the particulars as to the position of the deck line and load lines specified in the certificate.

Insertion of particulars as to load lines in agreements with crew.

(2) In the case of a ship required by this Act to engage its crew before a shipping master, the shipping master shall not proceed with the engagement of the crew until—

(a) there is produced to him a load line certificate for the time being in force in respect of the ship; and

(b) he is satisfied that the particulars required by this section have been inserted in the agreement with the crew.

Special provisions as to ships other than Indian ships

321. *The Central Government may, at the request of a country to which the Load Line Convention applies, issue an international load line certificate in respect of a ship registered in that country if it is satisfied in like manner as in the case of an Indian ship that it can properly issue the certificate and where the certificate is issued at such a request, it shall contain a statement that it has been so issued.

Issue of load line certificates to foreign ships in India and Indian ships in foreign countries.

Recognition
of load line
certificates
issued out-
side India.

322. An international load line certificate issued in respect of any ship other than an Indian ship by the Government of the country to which the ship belongs shall, subject to such rules as the Central Government may make in this behalf, have the same effect in India as a load line certificate issued in respect of an Indian ship under this Part. 5

Inspection
and control
of Load Line
Convention
ships other
than Indian
ships.

323. (1) A surveyor may, at any reasonable time, go on board any ship other than an Indian ship being a ship of one hundred and fifty tons gross or more carrying cargo or passengers and registered in a country to which the Load Line Convention applies, when such ship is within any port in India, for the purpose of demanding the production of any load line certificate for the time being in force in respect of the ship. 10

(2) If a valid international load line certificate is produced to the surveyor on any such demand, the surveyor's powers of inspecting the ship with respect to load line shall be limited to seeing— 15

(a) that the ship is not loaded beyond the limits allowed by the certificate;

(b) that the position of the load lines on the ship corresponds with the position specified in the certificate; 20

(c) that no material alterations have taken place in the hull or superstructures of the ship which affect the position of the load lines;

(d) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued. 25

(3) If it is found on any such inspection that the ship is loaded beyond the limits allowed by the certificate, the ship may be detained and the provisions of section 342 shall apply. 30

(4) If it is found on any such inspection that the load lines on the ship are not in the position specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor. 35

(5) If it is found on any such inspection that the ship has been materially altered in respect of the matters referred to in

clauses (a) and (b) of sub-section (2) that the ship is manifestly unfit to proceed to sea without danger to human life, the ship shall be deemed to be unsafe for the purpose of section 336 (in the case of an Indian ship) or for the purpose of section 342 (in the case of any other ship):

Provided that where the ship has been detained under either of the last-mentioned sub-sections, the Central Government shall order the ship to be released as soon as it is satisfied that the ship is fit to proceed to sea without danger to human life.

10 (6) If a valid international load line certificate is not produced to the surveyor on such demand as aforesaid, the surveyor shall have the same power of inspecting the ship, for the purpose of seeing that the provisions of this Part relating to load lines have been complied with as if the ship were an Indian ship.

15 (7) For the purposes of this section a ship shall be deemed to be loaded beyond the limits allowed by the certificate if she is so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line appearing by the certificate to indicate the maximum
20 depth to which the ship is for the time being entitled under the Load Line Convention, to be loaded.

324. The master of every ship other than an Indian ship, being a ship of one hundred and fifty tons gross or more carrying cargo or passengers, and belonging to a country to which the Load Line Convention applies, shall produce to the customs collector from whom a port clearance for the ship from any port in India is demanded—
25 Certificate of Load Line Convention ships other than Indian ships to be produced to customs.

30 (a) in a case where port clearance is demanded in respect of a voyage to a port *** outside India, a valid international load line certificate;

(b) in a case where port clearance is demanded in respect of any other voyage, either a valid international load line certificate or a valid Indian load line certificate;

and the port clearance shall not be granted, and the ship may be
35 detained, until the certificate required by this section is so produced.

325. The provisions of section 312 shall apply to ships other than Indian ships proceeding or attempting to proceed to sea from ports in India as they apply to Indian ships subject to the following modifications, namely:—
40 Marking of deck line and load lines of ships other than Indian ships.

(a) the said section shall not apply to a ship other than

an Indian ship if a valid international load line certificate is produced in respect of the ship; and

(b) subject to the provisions of clause (a), a ship other than an Indian ship which does not comply with the conditions of assignment to the extent required in her case by section 323 shall be deemed to be unsafe for the purpose of section 342.

Submersion
of load line
of ships
other than
Indian ships.

326. The provisions of section 313 shall apply to ships other than Indian ships, while they are within any port in India as they apply to Indian ships subject to the following modifications, namely:—

(a) no ship of one hundred and fifty tons gross or more carrying cargo or passengers and belonging to a country to which the Load Line Convention applies, shall be detained and no proceedings shall be taken against the owner or master thereof by virtue of the said section except after an inspection by a surveyor as provided by section 323; and

The expression "the appropriate load line" in relation to any ship other than an Indian ship shall mean—

(i) in the case of a ship in respect of which there is produced on such an inspection as aforesaid a valid international load line certificate, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention, to be loaded;

(ii) in any other case, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded, or, if no load line on the ship corresponds as aforesaid, the lowest load line thereon.

Inspection of
ships other
than Indian
ships
belonging
to non-Con-
vention
countries.

327. The provisions of section 315 shall apply, in the same manner as they apply to Indian ships, to all ships registered in a country to which the Load Line Convention does not apply while they are within Indian jurisdiction.

Load line
certificates
of ships
other than
Indian ships.

328. (1) The provisions of this Part relating to the issue, effect, duration, renewal and cancellation of Indian load line certificates shall apply to ships other than Indian ships as they apply to Indian ships subject to the following modifications, namely:—

(a) any such certificate may be issued in respect of any such ship as in respect of an Indian ship provided that any such

certificate issued in respect of a ship of one hundred and fifty tons gross or more carrying cargo or passengers and registered in a country to which the Load Line Convention applies, shall only be valid so long as the ship is not plying on voyages from or to any port in India to or from any place outside India and shall be endorsed with a statement to that effect and shall be cancelled by the Central Government if it has reason to believe that the ship is so plying; and

(b) the survey required for the purpose of seeing whether the certificate should remain in force shall take place when required by the Central Government.

(2) If the Central Government is satisfied—

(a) that provision has been made for the fixing, marking and certifying of load lines by the law in force in any country outside India with respect to ships (or any class or description of ships) of that country and has also been so made (or has been agreed to be so made) for recognising Indian load line certificates as having the same effect in ports of that country as certificates issued under the said provision, and

(b) that the said provision for the fixing, marking and certifying of load lines is based on the same principles as the corresponding provisions of this Part relating to load lines and is equally effective,

it may, by notification in the Official Gazette, direct that load line certificates issued in pursuance of the said provision or in respect of ships (or that class or description of ships) of that country, shall have the same effect for the purpose of this Part as Indian load line certificates:

Provided that such direction shall not apply to ships of one hundred and fifty tons gross or more carrying cargo or passengers and registered in countries to which the Load Line Convention applies, if such ships are engaged in plying on voyages from or to any port in India to or from any port outside India.

329. The master of every ship registered in a country to which the Load Line Convention does not apply shall produce to the customs collector from whom a port clearance for the ship from any port in India is demanded, either an Indian load line certificate or a certificate having effect under this Act as such a certificate, being a certificate for the time being in force in respect of the ship, and the port clearance shall not be granted and the ship may be detained until the certificate required by this section is so produced.

Certificates to be produced to Customs by ships other than Indian ships belonging to non-Conventional countries.

Loading of timber

Power to
make rules
as to timber
cargo.

330. (1) The Central Government shall, subject to the condition of previous publication, make rules (hereafter in this section referred to as "the timber cargo rules") as to the conditions on which timber may be carried as cargo in any uncovered space on the deck of any Indian ship. 5

(2) The timber cargo rules may prescribe a special load line to be used only when the ship is carrying timber as cargo on deck and the conditions on which such special load line may be assigned, and may further prescribe either generally or with reference to particular voyages and seasons the manner and position in which such timber is to be stowed and the provisions which are to be made for the safety of the crew. 10

(3) Any surveyor may at any reasonable time, inspect any Indian ship carrying timber as cargo in any uncovered space on her deck for the purpose of seeing whether the timber cargo rules have been complied with. 15

(4) The foregoing provisions of this section and the timber cargo rules shall apply to ships other than Indian ships while they are within Indian jurisdiction as they apply to Indian ships. 20

Dangerous goods and grain cargoes

Carriage of
dangerous
goods.

331. (1) The Central Government may make rules for regulating in the interests of safety the carriage of dangerous goods in ships.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the classification of such goods, the packing, marking and stowing of such goods or any class of goods and the fixing of the maximum quantity of any such class of goods which may be carried in different ships or classes of ships. 25

(3) The owner, master or agent of a ship carrying or intending to carry any dangerous goods as cargo and about to make a voyage from a port in India shall furnish in advance the prescribed particulars of the ship and the cargo to such authority as may be prescribed for the purpose. 30

(4) A surveyor may inspect the ship for the purpose of securing that any rules under this section are complied with. 35

(5) If any of the rules made in pursuance of this section is not complied with in relation to any ship, the ship shall be deemed for the purpose of this Part to be an unsafe ship.

(6) This section shall apply, in the same manner as it applies to Indian ships, to ships other than Indian ships while they are within any port *** in India or are embarking or disembarking passengers or are loading or discharging cargo or fuel within Indian jurisdiction.

5 *Explanation.*—In this section the expression “dangerous goods” means goods which by reason of the nature, quantity or mode of stowage are either singly or collectively liable to endanger the life or the health of persons on or near the ship or to imperil the ship, and includes all substances within the meaning of the expression
4 of 1884, 10 “explosive” as defined in the Indian Explosives Act, 1884, and any other goods which the Central Government may by notification in the Official Gazette specify as dangerous goods but shall not include any fog or distress signals or like equipment required to be carried by the ship under this Act or the rules or regulations thereunder.

15 332. (1) Where grain is loaded on board any Indian ship any- Carriage of
where or is loaded within any port in India on board any other grain.
ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions as aforesaid are not taken, the owner or the master of the ship or any agent of
20 the owner who was charged with the loading or with sending the ship to sea laden with grain shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

(2) Where any ship which is loaded with grain outside India with-
25 out all necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port in India so laden, the owner or master of the ship shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

30 (3) On the arrival at a port in India from a port outside India of any ship carrying a cargo of grain, the master shall cause to be delivered at the port to such customs or other officer as may be specified by the Central Government in this behalf, a notice stating—

(a) the draught of water and free board of the said ship
35 after the loading of the cargo was completed at the final port of loading; and

(b) the following particulars of the grain carried, namely:—

(i) the kind of grain and quantity thereof stated in cubic feet, quarters, bushels or tons weight;

(ii) the mode in which the grain is stowed; and

(iii) the precautions taken to prevent the grain from shifting.

(4) Any person authorised in this behalf by general or special order of the Central Government, may, for securing the observance of the provisions of this section, inspect a ship carrying a cargo of grain and the mode in which such cargo is stowed therein. 5

(5) The Central Government may, subject to the condition of previous publication, make rules in relation to the loading of ships with grain generally or of ships of any class specifying the precautions to be taken, and when such precautions have been prescribed, they shall be treated for the purposes of this section to be included in the expression "necessary and reasonable precautions". 10

(6) In this section, the expression "grain" includes wheat, maize, oats, rye, barley, rice, pulses and seeds, and the expression "ship carrying a cargo of grain" means a ship carrying a quantity of grain exceeding one-third of the ship's registered tonnage reckoning one hundred cubic feet or two tons of weight of grain as equivalent to one ton of registered tonnage. 15

Sub-division load lines

20

333. (1) Where—

Submersion
of sub-division
load
lines in case
of passenger
ships.

(a) an Indian passenger ship has been marked with sub-division load lines, that is to say, load lines indicating the depth to which the ship may be loaded having regard to the extent to which she is sub-divided and to the space for the time being allotted to passengers, and 25

(b) the appropriate sub-division load line, that is to say, the sub-division load line appropriate to the space for the time being allotted to passengers on the ship, is lower than the load line indicating the maximum depth to which the ship is for the time being entitled under the provisions of this Part to be loaded, 30

the ship shall not be so loaded as to submerge in salt water the appropriate sub-division load line on each side of the ship when the ship has no list.

(2) Without prejudice to any other proceedings under this Act, any such ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

Unseaworthy ships

5 **334.** (1) Every person who sends or attempts to send an Indian ship to sea from any port in India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable,
10 be guilty of an offence under this sub-section.

Unseaworthy ship not to be sent to sea.

(2) Every master of an Indian ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to
15 sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be guilty of an offence under this sub-section.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

20 (4) No prosecution under this section shall be instituted except by, or with the consent of, the Central Government.

(5) A ship is "unseaworthy" within the meaning of this Act when the materials of which she is made, her construction, the qualifications of the master, the number, description and qualifications of the crew
25 including officers, the weight, description and stowage of the cargo and ballast, the condition of her hull and equipment, boilers and machinery are not such as to render her in every respect fit for the proposed voyage or service.

335. (1) In every contract of service, express or implied between the owner of an Indian ship and the master or any seaman thereof, and in every contract of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with
35 the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state during the voyage.

Obligation of owner to crew with respect to seaworthiness.

(2) For the purpose of seeing that the provisions of this section have been complied with, the Central Government may, either at the request of the owner or otherwise, arrange for a survey of the hull, equipment or machinery of any sea-going ship by a surveyor.

Detention of unsafe ships by the Central Government 5

Power to
detain unsafe
ship and
procedure
for detention.

336. (1) Where an Indian ship in any port to which the Central Government may specially extend this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipment or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having 10 regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely:—

(a) The Central Government, if it has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order 15 the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.

(b) A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

(c) When the Central Government provisionally orders the 20 detention of a ship, it shall either refer the matter to the court of survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon; and, on receiving the report, may either order the ship to be released or if in its opinion the ship is unsafe, may order 25 her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Central Government thinks necessary for the protection of human life. 30

(d) Before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the court of survey for the port where the ship is detained. 35

(e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being 40 a person named in the list of assessors for the court of survey

or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the Central Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no right of appeal. If the surveyor and assessor differ in their report, the Central Government may act as if the requisition had not been made, and the owner or master shall have a right of such appeal touching the report of the surveyor as is hereinbefore provided in this section.

(f) Where a ship has been provisionally detained, the Central Government may at any time if it thinks it expedient, refer the matter to the court of survey for the port where the ship is detained.

(g) The Central Government may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Any person appointed by the Central Government for the purpose (in this Act referred to as a "detaining officer") shall have the same power as the Central Government has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(3) A detaining officer shall forthwith report to the Central Government any order made by him for the detention or release of a ship.

(4) A ship detained under this section shall not be released by reason of her Indian register being subsequently closed.

Costs of detention and damages incidental thereto

337. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner or the master, for the provisional detention of a ship, the Central Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of Central Government for costs and damage when ship wrongly detained.

338. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, or if a ship is detained in pursuance of any provision of this Part which provides for the detention of a ship until a certain event

Liability of shipowner for costs when ship rightly detained.

occurs, the owner of the ship shall be liable to pay to the Central Government its costs of and incidental to the detention and survey of the ship; and the ship shall not be released until such costs are paid.

Method of calculating costs of detention and survey.

339. For the purposes of this Act, the costs of and incidental to 5 any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the Central Government before the court, shall be deemed to be part of the costs of the detention and survey of the ship.

10

Power to require from complainant security for costs, etc.

340. When a complaint is made to the Central Government or a 10 detaining officer that an Indian ship is unsafe, it shall be in the discretion of the Central Government or the detaining officer, as the case may be, to require the complainant to give security to the satisfaction of the Central Government or the detaining officer for 15 the costs and compensation which such complainant may become liable to pay as hereinafter mentioned:

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Central Government or the detaining officer 20 frivolous or vexatious, such security shall not be required; and the Central Government or the detaining officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

25

Costs, etc., payable by Central Government recoverable from complainant.

341. Where a ship is detained in consequence of any complaint 25 and the circumstances are such that the Central Government is liable under this Part to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Central Government all such costs and compensation as the Central Govern- 30 ment incurs, or is liable to pay, in respect of the detention and survey of the ship.

Application to ships other than Indian ships of provisions as to detention

342. When a ship other than an Indian ship is in a port in India 35 and is, whilst at that port, unsafe by reason of the defective condition of her hull, equipment or machinery, or by reason of overload- ing or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that ship as if she were an Indian ship with the following modifications, namely:—

(a) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the 40 country to which the ship belongs at or nearest to the port in which such ship is detained;

(b) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Central Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Central Government shall cause the ship, to be detained or released accordingly; but, if they differ, the Central Government may act as if the requisition had not been made, and the owner and master shall have the like right of appeal to a court of survey touching the report of the surveyor as is hereinbefore provided in the case of an Indian ship; and

(c) where the owner or master of the ship appeals to the court of survey, the consular officer, at the request of the owner or master, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were an Indian ship, would be appointed otherwise than by the Central Government.

343. (1) Nothing in this Part—

(a) prohibiting a ship from proceeding to sea unless there are in force in relation to the ship, or are produced the appropriate certificates issued under this Part or the appropriate safety convention certificates;

(b) requiring information about a ship's stability to be carried on board;

shall, unless in the case of information about a ship's stability the Central Government otherwise orders, apply to any troopship, pleasure yacht or fishing vessel or to any ship of less than five hundred tons gross other than a passenger ship or to any ship not fitted with mechanical means of propulsion.

(2) Nothing in the preceding sub-section shall affect the exemption conferred by any other provision of this Act.

(3) Nothing in this Part shall apply to any ship other than an Indian ship while it is within any port in India if it would not have been within such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

344. (1) The Central Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Part relating to certificates granted under this Part.

Exemption
of ships
from certain
provisions of
this Part.

Power to
make rules
respecting
certificates
under this
Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the form of any certificate issued under this Part;

(b) the circumstances in which a certificate purporting to have been issued outside India in accordance with the provisions of the Safety Convention or the Load Line Convention shall be recognised in India; 5

(c) the fees to be charged in respect of any certificate issued under this Part and the manner in which such fees may be recovered. 10

PART X

COLLISIONS, ACCIDENTS AT SEA AND LIMITATION OF LIABILITY

Division of
loss in case
of collision.

345. (1) Whenever by the fault of two or more ships damage or loss is caused to one or more of them or to the cargo of one or more of them or to any property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was at fault: 15

Provided that—

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; 20

(b) nothing in this section shall operate so as to render any ship liable for any loss or damage to which her fault has not contributed;

(c) nothing in this section shall affect the liability of any person under any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law. 25

(2) For the purposes of this Part, references to damage or loss caused by the fault of a ship shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable in law by way of damages. 30

Damages for
personal
injury.

346. (1) Whenever loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships concerned shall be joint and several. 35

(2) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by 40

the person injured, or any person entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

5 **347.** (1) Whenever loss of life or personal injuries are suffered by a person on board a ship owing to the fault of that ship and of
any other ship or ships, and a proportion of the damages is recovered
from the owner of one of the ships which exceeds the proportion
in which she was in fault, the said owner may recover by way
10 of contribution the amount of the excess from the owners of the
other ship or ships to the extent to which those ships were respectively
in fault: Right of
contribution.

Provided that no amount shall be so recovered which could not,
by reason of any statutory or contractual limitation of, or exemp-
15 tion from, liability, or which could not for any other reason, have
been recovered in the first instance as damages by the persons
entitled to sue therefor.

(2) In addition to any other remedy provided by law, the person
entitled to any contribution under sub-section (1) shall, for the
20 purpose of recovering the contribution, have, subject to the provisions
of this Act, the same rights and powers as the persons entitled
to sue for damages in the first instance.

348. In every case of collision between two ships it shall be the
duty of the master or person in charge of each ship, if and so far as
25 he can do so without danger to his own ship, crew and passengers,
if any— Duty of
master of
ship to assist
in case of
collision.

(a) to render to the other ship, her master, crew and passengers,
if any, such assistance as may be practicable and may be
necessary to save them from any danger caused by the collision
30 and to stay by the other ship until he has ascertained that she
has no need of further assistance, and

(b) to give to the masters or persons in charge of the other
ships the name of his own ship and of the port to which she
belongs and also the names of the ports from which she comes
35 and to which she is bound.

349. In every case of collision in which it is practicable so to do,
the master of every ship concerned shall, immediately after the
occurrence, cause a statement thereof and of the circumstances under
which the same occurred to be entered in the official log book, if any,
40 and the entry shall be signed by the master and also by the mate or
one of the crew. Collision to
be entered
in official
log.

Report to
Central
Government
of accidents
to ships.

350. When a ship has sustained or caused any accident occasioning loss of life or any serious injury to any person or has received any material damage affecting her seaworthiness or her efficiency either in her hull or is so altered in any part of her machinery as not to correspond with the particulars contained in any of the certificates issued under this Act in respect of the ship, the owner or master shall, within twenty-four hours after the happening of the accident or damage or as soon thereafter as possible, transmit to the Central Government or the nearest principal officer a report of the accident or damage and of the probable cause thereof stating the name of the ship, her official number, if any, her port of registry and the place where she is.

Notice of
loss of In-
dian ship to
be given to
Central Go-
vernment.

351. If the owner or agent of any Indian ship has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall, as soon as conveniently may be, send to the Central Government notice in writing of the loss and of the probable cause thereof stating the name of the ship, her official number, if any, and her port of registry.

Limitation of
liability of
owner for
damage.

352. (1) The owner of a ship, whether an Indian ship or not, shall not, if any loss of life or personal injury to any person, or any loss of or damage to any property or rights of any kind, whether movable or immovable is caused without his actual fault or privity,—

(a) if no claim for damages in respect of loss of or damage to property or rights arises, be liable for damages in respect of loss of life or personal injury to an aggregate amount exceeding two hundred rupees for each ton of the ship's tonnage; or

(b) if no claim for damages in respect of loss of life or personal injury arises, be liable for damages in respect of loss of or damage to property or rights to an aggregate amount exceeding one hundred rupees for each ton of the ship's tonnage; or

(c) if claims for damages in respect of loss of life or personal injury and also claims for damages in respect of loss of or damage to property or rights arise, be liable for damages to an aggregate amount exceeding two hundred rupees for each ton of the ship's tonnage:

Provided that in such a case claims for damages in respect of loss of life or personal injury shall, to the extent of an aggregate amount of one hundred rupees for each ton of the ship's tonnage, have priority over claims for damages in respect of loss of or damage to property or rights, and, as regards the

balance of the aggregate amount of two hundred rupees for each ton of the ship's tonnage, the unsatisfied portion of the first-mentioned claims shall rank *pari passu* with the last-mentioned claims.

5 (2) The provisions of this section shall extend and apply to the owners, builders or other persons interested in any ship built at any port or place in India, from and including the launching of such ship until the registration thereof under the provisions of this Act.

10 (3) The provisions of this section shall apply in respect of claims for damages in respect of loss of life, personal injury and loss of or damage to property or rights arising on any single occasion, and in the application of the said provisions, claims for damages in respect of loss, injury or damage arising out of two or more distinct occasions shall not be combined.

15 (4) For the purposes of this section a ship's tonnage shall be determined in such manner as the Central Government may by general or special order, specify.

PART XI

NAVIGATION

20 353. No person on any Indian ship shall, when the ship is going ahead, give a helm or steering order containing the word "starboard" or "right" or any equivalent of "starboard" or "right" unless he intends that the head of the ship shall move to the "right" or give a helm or steering order containing the word "port" or "left" or any
25 equivalent of "port" or "left" unless he intends that the head of the ship shall move to the left.

Method of giving helm orders.

354. The master of any Indian ship on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation shall send information accordingly by all means of communication at his disposal and in accordance with such rules as the
30 Central Government may make in this behalf to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.

Duty to report dangers to navigation.

Explanation.—For the purpose of this section the expression "tropical storm" means a hurricane, typhoon, cyclone or other storm
35 of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in the vicinity.

Obligation to
render assis-
tance on re-
ceiving sig-
nal of dis-
tress.

355. (1) The master of an Indian ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable or in the special circumstances of the case considers it unreasonable or unnecessary to do so or unless he is released from such obligation under the provisions of sub-section (3) or sub-section (4). 5

(2) Where the master of any ship in distress has requisitioned any Indian ship that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress unless he is released from the obligation under the provisions of sub-section (4). 10

(3) The master shall be released from the obligation imposed by sub-section (1) as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned. 15

(4) The master shall be released from the obligation imposed by sub-section (1), and if his ship has been requisitioned, from the obligation imposed by sub-section (2), if he is informed by the persons in distress or by the master of any ship that has reached the persons in distress that assistance is no longer required. 20

(5) If the master of an Indian ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress is unable or in the special circumstances of the case considers it unreasonable or unnecessary to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log book or, if there is no official log book, cause other record to be kept of his reasons for not going to the assistance of those persons. 25 30

(6) The master of every Indian ship for which an official log is required shall enter or cause to be entered in the official log book every signal of distress or message that a vessel, aircraft or person is in distress at sea. 35

Power to
make rules
as to signals.

356. The Central Government may, subject to the condition of previous publication, make rules prescribing—

(a) the manner of communicating information regarding dangers to navigation, and the authorities on shore to whom such information is to be communicated; 40

(b) the signals which shall be signals of distress and of urgency, respectively;

(c) the circumstances in which, and the purposes for which, any such signal is to be used, and the circumstances in which it is to be revoked; and

(d) the speed at which any message sent by radio telegraphy in connection with such signal is to be transmitted.

PART XII

INVESTIGATIONS AND INQUIRIES

10 357. In this Part, the word "coasts" includes the coasts of creeks and tidal rivers. Definition of "coasts".

358. (1) For the purpose of investigations and inquiries under this Part, a shipping casualty shall be deemed to occur when— Shipping casualties and report thereof.

(a) on or near the coasts of India, any ship is lost, abandoned, stranded or materially damaged;

(b) on or near the coasts of India, any ship causes loss or material damage to any other ship;

(c) any loss of life ensues by reason of any casualty happening to or on board any ship on or near the coasts of India;

(d) in any place, any such loss, abandonment, stranding, material damage or casualty as above mentioned occurs to or on board any Indian ship, and any competent witness thereof is found in India;

(e) any Indian ship is lost or is supposed to have been lost, and any evidence is obtainable in India as to the circumstances under which she proceeded to sea or was last heard of.

(2) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship at the time of the shipping casualty, and

in the cases mentioned in clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in India from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in India, give immediate notice of the shipping casualty to the officer appointed in this behalf by the Central Government.

Report of
shipping
casualties, to
Central
Government.

359. (1) Whenever any such officer as is referred to in sub-section (2) of section 358 receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Central Government; and may proceed to make a preliminary inquiry into the casualty. 5

(2) An officer making a preliminary inquiry under sub-section (1) shall send a report thereof to the Central Government or such other authority as may be appointed by it in this behalf

Application
to court for
formal investigation.

360. The officer appointed under sub-section (2) of section 358, whether he has made a preliminary inquiry or not, may, and, where the Central Government so directs, shall make an application to a court empowered under section 361, requesting it to make a formal investigation into any shipping casualty, and the court shall thereupon make such investigation. 10

Court empowered to
make formal
investigation.

361. A magistrate of the first class specially empowered in this behalf by the Central Government and a presidency magistrate shall have jurisdiction to make formal investigations into shipping casualties under this Part. 15

Power of
court of investigation to
inquire into
charges against
masters, mates and
engineers.

362. (1) Any court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty. 20

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer, in the course of an investigation, the court shall, before the commencement of the inquiry, cause to be furnished to him a statement of the case upon which the inquiry has been directed. 25

Power of
Central Government to
direct inquiry
into charges
of incompetency or
misconduct

363. (1) If the Central Government has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Central Government,— 30

(a) if the master, mate or engineer holds a certificate under this Act, in any case; 35

(b) if the master, mate or engineer holds a certificate under the law of any country outside India, in any case where the incompetency or misconduct has occurred on board an Indian ship;

may transmit a statement of the case to any court having jurisdiction under section 361, which is at or nearest to the place where it may be convenient for the parties and witnesses to attend, and may direct that court to make an inquiry into that charge.

5 (2) Before commencing the inquiry, the court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Central Government.

364. For the purpose of any inquiry under this Part into any charge against a master, mate or engineer, the court may summon 10 him to appear, and shall give him an opportunity of making a defence either in person or otherwise. Opportunity to be given to person to make defence

365. For the purpose of any investigation or inquiry under this Part, the court making the investigation or inquiry shall, in respect of compelling the attendance and examination of witnesses and the 15 production of documents and the regulation of the proceedings, have the same powers as are exercisable by that court in the exercise of its criminal jurisdiction. Power of court as to evidence and regulation of proceedings.

366. (1) A court making a formal investigation shall constitute as 20 its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs: Assessors.

Provided that, where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the 25 certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the court by this Part or any 30 other law for the time being in force shall rest with the court.

(3) The assessors shall be chosen from a list to be prepared from time to time by the Central Government.

367. If any court making an investigation or inquiry under this Part thinks it necessary for obtaining evidence that any person 35 should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer, subject, nevertheless, to any general or special instructions from the Central Government, to enter any vessel, and any officer so authorised may, Power to arrest witnesses and enter ships.

for the purpose of enforcing the entry, call to his aid any officer of police or customs or any other person.

Power to
commit for
trial and
bind over
witnesses.

368. Whenever, in the course of any such investigation or inquiry, it appears that any person has committed in India an offence punishable under any law in force in India, the court making the investigation or inquiry may (subject to such rules consistent with this Act as the High Court may from time to time make) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all its powers as a criminal court.

Report by
court to Central Government.

369. (1) The court shall, in the case of all investigations or inquiries under this Part, transmit to the Central Government a full report of the conclusions at which it has arrived together with the evidence.

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(2) Where the investigation or inquiry affects a master or an officer of a ship other than an Indian ship who holds a certificate under the law of any country outside India, the Central Government may transmit a copy of the report together with the evidence to the proper authority in that country.

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Powers of
court as to
certificates
granted by
Central Government.

370. (1) A certificate of a master, mate or engineer which has been granted by the Central Government under this Act may be cancelled or suspended—

(a) by a court holding a formal investigation into a shipping casualty under this Part if the court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;

(b) by a court holding an inquiry under this Part into the conduct of the master, mate, or engineer if the court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct or in a case of collision has failed to render such assistance or give such information as is required by section 348.

(2) At the conclusion of the investigation or inquiry, or as soon thereafter as possible, the court shall state in open sitting the decision to which it may have come with respect to the cancellation or suspension of any certificate and, if suspension is ordered, the period for which the certificate is suspended.

(3) Where the court cancels or suspends a certificate, the court shall forward it to the Central Government together with the report which it is required by this Part to transmit to it.

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371. Where it appears to the court holding an investigation or inquiry that having regard to the circumstances of the case an order of cancellation or suspension under section 370 is not justified, the court may pass an order censuring the master, mate or engineer in respect of his conduct.

Power of court to censure master, mate or engineer.

372. (1) A magistrate of the first class specially empowered in this behalf by the Central Government or a presidency magistrate, may remove the master of any ship within his jurisdiction if the removal is shown to his satisfaction to be necessary.

Power of court to remove master and appoint new master.

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated officer or of one-third or more of the crew of the ship.

(3) The magistrate may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within his jurisdiction, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The magistrate may also make such order and require such security in respect of the costs of the matter as he thinks fit.

Marine Board

373. Whenever—

Convening of Marine Boards outside India.

(a) a complaint is made to an Indian consular officer or a senior officer of any ship of the Indian Navy in the vicinity (hereinafter referred to as naval officer) by the master or any member of the crew of an Indian ship and such complaint appears to the Indian consular officer or naval officer, as the case may be, to require immediate investigation; or

(b) the interest of the owner of an Indian ship of the cargo thereof appears to an Indian consular officer or naval officer, as the case may be, to require it; or

(c) an allegation of incompetency or misconduct is made to an Indian consular officer or a naval officer against the master or any of the officers of an Indian ship; or

(d) any Indian ship is lost, abandoned or stranded at or near the place where an Indian consular officer or naval officer may be or whenever the crew or part of the crew of any Indian ship which has been lost, abandoned or stranded arrives at that place; or

(e) any loss of life or any serious injury to any person has occurred on board an Indian ship at or near that place;

the Indian consular officer or the naval officer, as the case may be, may, in his discretion, convene a Board of Marine Inquiry to

investigate the said complaint or allegation or the matter affecting the said interest or the cause of the loss, abandonment or the stranding of the ship or of the loss of life or of the injury to the person.

Constitution
and proce-
dure of
Marine
Board.

374. (1) A Marine Board shall consist of the officer convening the Board and two other members.

5

(2) The two other members of the Marine Board shall be appointed by the officer convening the Marine Board from among persons conversant with maritime or mercantile affairs.

(3) The officer convening the Marine Board shall be the presiding officer thereof.

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(4) A Marine Board shall, subject to the provisions of this Act, have power to regulate its own procedure.

Decisions of
Marine
Board to be
by Majority.

375. Where there is a difference of opinion among members of the Marine Board, the decision of the majority of the members shall be the decision of the Board.

15

Power of
Marine
Board.

376. (1) A Marine Board may, after investigating and hearing the case—

(a) if it is of opinion that the safety of an Indian ship or her cargo or crew or the interest of the owner of an Indian ship or of the owner of the cargo thereof requires it, remove the master and appoint another qualified person to act in his stead;

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(b) if it is of opinion that any master or officer of an Indian ship is incompetent or has been guilty of any act of misconduct or in a case of collision has failed to render such assistance or give such information as is required by section 348 or that loss, abandonment or stranding of or serious damage to any ship, or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship's officer of an Indian ship, suspend the certificate of that master or ship's officer for a stated period;

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Provided that no such certificate shall be suspended unless the master or officer concerned has been furnished with a statement of the case in respect of which investigation has been ordered and he has also been given an opportunity of making a defence either in person or otherwise;

35

(c) discharge a seaman from an Indian ship and order the wages of any seaman so discharged or any part of those wages to be forfeited;

(d) decide any questions as to wages, fines or forfeitures arising between any of the parties to the proceedings;

5 (e) direct that any or all of the costs incurred by the master or owner of an Indian ship or on the maintenance of a seaman or apprentice while in prison outside India shall be paid out of, and deducted from, the wages of that seaman or apprentice, whether earned or subsequently earned;

(f) if it considers such a step expedient, order a survey to be made of any Indian ship which is the subject of investigation;

10 (g) order the costs of proceedings before it or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or unjustified complaint to pay compensation for any loss or delay caused thereby; and any costs or compensation so ordered to be paid by any person shall
15 be paid by that person accordingly and may be recovered in the same manner in which wages of seaman are recoverable or may be deducted from the wages due to that person.

(2) All orders made by a Marine Board shall, whenever practicable, be entered in the official log book of the ship which is the subject
20 of investigation or on board which the casualty or occurrence or conduct investigated took place, and be signed by the presiding officer of the Board.

Miscellaneous provisions relating to cancellation and suspension of certificates

25 **377. (1)** Any certificate which has been granted by the Central Government under this Act to any master, mate or engineer, may be cancelled or suspended for any specified period, by the Central Government in the following cases, that is to say,—

Powers of Central Government to cancel, suspend, etc., certificate of master, mate or engineer.

30 (a) if, on any investigation or inquiry made by any court, tribunal or other authority for the time being authorised by the legislative authority in any country outside India, the court, tribunal or other authority reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or in a case of collision
35 has failed to render assistance, or to give such information as is referred to in section 348, or that the loss, stranding or abandonment of, or damage to any ship or loss of life has been caused by his wrongful act or default;

(b) if the master, mate or engineer is proved to have been convicted—

(i) of any offence under this Act or of any non-bailable offence committed under any other law for the time being in force in India; or

5

(ii) of an offence committed outside India which, if committed in India, would be a non-bailable offence; -

(c) if (in the case of a master of an Indian ship) he has been superseded by the order of any court of competent jurisdiction in India or outside India.

10

(2) The Central Government may at any time, if it thinks the justice of the case so requires,—

(a) revoke any order of cancellation or suspension made by it under sub-section (1) or set aside any order of cancellation or suspension made by a court under section 370 or any order of suspension made by a Marine Board under clause (b) of sub-section (1) of section 376 or any order of censure made by a court under section 371; or

(b) shorten or lengthen the period of suspension ordered by it under sub-section (1) or by a court under section 370 or by a Marine Board under clause (b) of sub-section (1) of section 376 or cancel a certificate suspended by a Marine Board under that clause; or

(c) grant without examination a new certificate of the same or any lower grade in the case of any certificate cancelled or suspended by it under sub-section (1) or by a court under section 370 or any certificate suspended by a Marine Board under clause (b) of sub-section (1) of section 376:

Provided that no order under clause (b) either lengthening the period of suspension of or cancelling a certificate shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

(3) A certificate granted under clause (c) of sub-section (2) shall have the same effect as if it had been granted after examination.

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Delivery of
Indian certi-
ficate can-
celled or
suspended.

378. A master or ship's officer who is the holder of a certificate issued under this Act shall, if such certificate has been cancelled or suspended by the Central Government or by a court or suspended by a Marine Board, deliver his certificate to the Central

Government, court or Marine Board on demand or if it is not so demanded by the Central Government or court or Board, to the Director-General.

379. The cancellation or suspension of a certificate by the Central Government or by a court or the suspension of a certificate by a Marine Board, shall—

Effect of cancellation or suspension of certificate.

(a) if the certificate was issued under this Act, be effective everywhere and in respect of all ships; and

(b) if the certificate was issued outside India, be effective—

(i) within India and the territorial waters of India, in respect of all ships; and

(ii) outside India, in respect of Indian ships only.

380. If the certificate of a master or ship's officer is suspended under this Part by the Central Government or by a court or a Marine Board, no endorsement shall be made to that effect on the said certificate.

Suspended certificate not to be endorsed.

381. Notwithstanding anything contained in this Act, the Central Government may, at any time, without any formal investigation or inquiry, cancel or suspend any certificate granted by it under this Act, other than a certificate granted to a master, mate or engineer, if, in its opinion, the holder is, or has become, unfit to act in the grade for which the certificate was granted to him:

Power of Central Government to cancel or suspend other certificates.

Provided that no order under this section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

Re-hearing of cases

382. (1) Whenever an investigation or inquiry has been held by a court or by a Marine Board under this Part, the Central Government may order the case to be re-heard either generally or as to any part thereof, and shall so order—

(a) if new and important evidence which could not be produced at the investigation has been discovered, or

(b) if for any other reason there has, in its opinion, been a miscarriage of justice.

(2) The Central Government may order the case to be re-heard by the court or Marine Board, as the case may be, consisting of the same members or other members as the Central Government may deem fit. 5

Courts of survey

Constitution
of Court of
survey.

383. (1) A court of survey for a port shall consist of a judge sitting with two assessors.

(2) The judge shall be a district judge, judge of a court of small causes, presidency magistrate, magistrate of the first class or other fit person appointed in this behalf by the Central Government either generally or for any specified case. 10

(3) The assessors shall be persons of nautical, engineering or other special skill or experience. 15

(4) Subject to the provisions of Part IX as regards ships other than Indian ships, one of the assessors shall be appointed by the Central Government either generally or in each case and the other shall be summoned by the judge in the manner prescribed out of a list of persons from time to time prepared for the purpose by the Central Government or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the judge. 20

Appeal from
surveyor to
court of
survey.

384. (1) If a surveyor authorised to inspect a ship—

(a) makes a statement in his report of inspection with which the owner or his agent or the master of the ship is dissatisfied, or 25

(b) gives notice under this Act of any defect in any ship, or

(c) declines to give any certificate under this Act,

the owner, master or agent as the case may be, may subject to the provisions of sub-section (2) and of section 387, appeal to a court of survey. 30

(2) Whenever a surveyor inspects any ship, he shall, if the owner, master or agent of the ship so requires, be accompanied on the inspection by some person nominated by the owner, master or agent, as the case may be, and if the person so nominated agrees with the surveyor as to the statement made or the notice given by the surveyor or the refusal by the surveyor to give a certificate, there shall be no appeal to a court of survey from that statement, notice or refusal. 35

385. (1) The judge shall on receiving notice of appeal or a reference from the Central Government immediately summon the assessors to meet forthwith in the prescribed manner.

Powers and procedure of court of survey.

(2) The court of survey shall hear every case in open court.

5 (3) The judge may appoint any competent person to survey the ship and report thereon to the court.

(4) The judge shall have the same powers as the Central Government has to order the ship to be released or finally detained; but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(5) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Central Government may attend any inspection or survey made in pursuance of this section.

15 (6) The judge shall report the proceedings of the court in each case to the Central Government in the manner prescribed and each assessor shall either sign such report or report to the Central Government the reasons for his dissent.

20 386. The Central Government may make rules for carrying out the purposes of this Part with respect to a court of survey and in particular, and without prejudice to the generality of the foregoing power, with respect to—

Power to make rules.

(a) the procedure of the court;

25 (b) the requiring, on an appeal, of security for costs and damages;

(c) the amount and application of fees; and

(d) the ascertainment, in case of dispute, of the proper amount of costs.

Scientific referees

30 387. (1) If the Central Government is of opinion that an appeal to a court of survey involves a question of construction or design or a scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Central Government as may appear to possess the special qualifications necessary for the particular case and may be selected by agreement between a person duly appointed by the Central Government in this behalf and the appellant, or in default of any such agreement, by the Central Government; and thereupon the appeal shall be determined by the referee or referees instead of by the court of survey.

Reference in difficult cases to scientific persons.

(2) The Central Government, if the appellant in any such appeal **so requires and gives security to its satisfaction to pay the costs of** and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as **a** 5 judge of the court of survey.

Investigations into explosions or fires on board ships

Power to investigate causes of explosion or fire on board ship.

388. Whenever any explosion or fire occurs on board any ship on or near the coasts of India, the Central Government may direct that an investigation into the causes of explosion or fire be 10 made by such person or persons as it thinks fit.

Report to be made regarding cause of explosion or fire.

389. The person or persons referred to in section 388 may go on board the ship on which the explosion or fire has occurred with all necessary workmen and labourers, and remove any portion of the ship, or of the machinery thereof, for the purpose of the investiga- 15 tion, and shall report to the Central Government or the person duly appointed by it, as the case may be, what in his or their opinion, was the cause of the explosion or fire.

PART XIII

WRECK AND SALVAGE

20

Wreck

Definition of "coasts"

390. In this Part, the word "coasts" includes the coasts of creeks and tidal rivers.

Receivers of wreck.

391. (1) The Central Government may, by notification in the Official Gazette, appoint any person to be a receiver of wreck (in 25 this Part referred to as receiver of wreck) to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as may be specified in the notification.

(2) A receiver of wreck may, by order in writing, direct that all 30 or any of his functions under this Part shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be discharged by such person as may be specified therein and any person while discharging any such functions shall be deemed to be a receiver of wreck for the purposes of this Act. 35

Duties of receiver where vessel is in distress.

392. Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of India, the receiver of wreck, within the limits of whose jurisdiction the place is situate shall, upon being made acquainted with the circumstance, forthwith proceed

there, and upon his arrival shall take command of all persons present and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel and of its cargo and equipment:

Provided that the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof unless he is requested to do so by the master.

393. (1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel or of saving the lives of the shipwrecked persons, or of saving the cargo or equipment of the vessel, unless there is some public road equally convenient, pass and repass, either with or without vehicles or animals, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible and may also on the like condition, deposit on these lands any cargo or other article recovered from the ship.

Power to pass over adjoining lands.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section, shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned and the amount payable in respect of the damage shall, in case of dispute, be determined by a magistrate on application made to him in this behalf.

394. Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or equipment of the vessel, the receiver of wreck may take such steps and use such force as he may consider necessary for the suppression of any such plundering, disorder or obstruction, and may for that purpose command any person to assist him.

Power of receiver of wreck to suppress plunder and disorder by force.

395. Any person finding and taking possession of any wreck within any local limits for which there is a receiver of wreck, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable—

Procedure to be observed by persons finding wreck.

(a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

Investigation
of certain
matters in
respect of
vessels
wreck-
ed, etc.

396. Whenever any vessel is wrecked, stranded or in distress as aforesaid, the receiver of wreck within the local limits of whose jurisdiction the vessel is wrecked, stranded or in distress may conduct an investigation into all or any of the following matters, that is to say,—

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- (a) the name and description of the vessel;
- (b) the names of the master and of the owners;
- (c) the names of the owners of the cargo;
- (d) the ports from and to which the vessel was bound;
- (e) the occasion of the wrecking, stranding, or distress of the vessel;
- (f) the services rendered; and
- (g) such other matters or circumstances relating to the vessel, the cargo or the equipment, as the receiver thinks necessary.

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Notice to be
given by
receiver.

397. The receiver of wreck shall as soon as may be after taking possession of any wreck, publish a notification in such manner and at such place as the Central Government may, by general or special order, direct, containing a description of the wreck and the time at which and the place where it was found.

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Immediate
sale of wreck
by receiver
in certain
cases.

398. A receiver of wreck may at any time sell any wreck in his custody if, in his opinion,—

- (a) it is under the value of five hundred rupees; or
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
- (c) it is not of sufficient value for warehousing;

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and the proceeds of the sale shall, after defraying the expenses thereof, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

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Claims of
owners to
wreck.

399. (1) The owner of any wreck in the possession of the receiver upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck came into the possession of the receiver shall, upon paying the salvage and other charges, be entitled to have the wreck or the proceeds thereof delivered to him.

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(2) Where any articles belonging to or forming part of a vessel other than an Indian vessel which has been wrecked or belonging to and forming part of the cargo of such vessel, are found on or near

the coasts of India or are brought into any port in India, the consular officer of the country in which the vessel is registered or, in the case of cargo, the country to which the owners of the cargo may have belonged shall, in the absence of the owner and of the master or
5 other agent of the owner, be deemed to be the agent of the owner, with respect to the custody and disposal of the articles.

(3) Where the owner of the wreck does not appear and claim the balance of the proceeds of sale within one year from the date of sale, the said balance shall become the property of the Central
10 Government.

400. No person shall—

(a) without the leave of the master board or attempt to board any vessel which is wrecked, stranded or in distress as
15 aforesaid, unless the person is, or acts by command of, the receiver of wreck; or

Prohibition of certain acts in respect of wreck.

(b) impede or hinder or attempt in any way to impede or hinder the saving of any vessel stranded or in danger of being stranded or otherwise in distress on or near the coasts of India or of any part of the cargo or equipment of the vessel, or of any
20 wreck; or

(c) secrete any wreck or deface or obliterate any marks thereon; or

(d) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded or otherwise in distress, on or near the coasts of India, or any part of the cargo or equip-
25 ment of the vessel or any wreck.

401. Where a receiver of wreck suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof or that any wreck is otherwise im-
30 properly dealt with, he may apply to the nearest magistrate for a search warrant, and that magistrate shall have power to grant such warrant and the receiver of wreck by virtue thereof may enter any house or other place wherever situate and also any vessel and search for, seize and detain any such wreck there found.

Search warrants where wreck is concealed.

Salvage

35 402. (1) Where services are rendered—

(a) wholly or in part within the territorial waters of India in saving life from any vessel, or elsewhere in saving life from a vessel registered in India; or

Salvage payable for saving life, cargo or wreck.

(b) in assisting a vessel or saving the cargo or equipment of a vessel which is wrecked, stranded or in distress at any place on or near the coasts of India; or

(c) by any person other than the receiver of wreck in saving any wreck; 5

there shall be payable to the salvor by the owner of the vessel, cargo, equipment or wreck, a reasonable sum for salvage having regard to all the circumstances of the case.

(2) Salvage in respect of the preservation of life when payable by the owner of the vessel shall be payable in priority to all other 10 claims for salvage.

(3) Where salvage services are rendered by or on behalf of the Government or by a vessel of the Indian Navy or the commander or crew of any such vessel the Government, the commander or the crew, as the case may be, shall be entitled to salvage and shall have 15 the same rights and remedies in respect of those services as any other salvor.

(4) Any dispute arising concerning the amount due under this section shall be determined upon application made by either of the disputing parties— 20

(a) to a magistrate, where the amount claimed does not exceed ten thousand rupees; or

(b) to the High Court, where the amount claimed exceeds ten thousand rupees.

(5) Where there is any dispute as to the persons who are entitled 25 to the salvage amount under this section, the magistrate or the High Court, as the case may be, shall decide the dispute and if there are more persons than one entitled to such amount, the magistrate or the High Court shall apportion the amount thereof among such persons.

(6) The costs of and incidental to all proceedings before a magistrate or the High Court under this section shall be in the discretion of the magistrate or the High Court, and the magistrate or the High Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid 35 and to give all necessary directions for the purpose aforesaid.

Sa vinga.

403. Nothing in this Part shall—

(a) affect any treaty or arrangement with any foreign country to which India is a party with reference to the disposal of the proceeds of wrecks on their respective coasts; or 40

15 of 1908.

(b) affect the provisions of section 29 of the Indian Ports Act, 1908, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

5 404. (1) The Central Government may, make rules to carry out the purposes of this Part. Power to make rules respecting wreck and salvage.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

10 (a) the procedure to be followed by a receiver of wreck in respect of the taking possession of wrecks and their disposal;

(b) the fees payable to receivers in respect of the work done by them;

15 (c) the procedure to be followed for dealing with claims relating to ownership of wrecks;

(d) the appointment of valuers in salvage cases;

(e) the principles to be followed in awarding salvage and the apportioning of salvage;

20 (f) the procedure to be followed for dealing with claims for salvage;

(g) the detention of property in the custody of a receiver of wreck for the purpose of enforcing payment of salvage.

PART XIV

CONTROL OF INDIAN SHIPS AND SHIPS ENGAGED IN COASTING TRADE

25 405. This Part applies only to sea-going ships fitted with mechanical means of propulsion of not less than one hundred and fifty tons gross; but the Central Government may, by notification in the Official Gazette, fix any lower tonnage for the purposes of this Part. Application of Part.

30 406. (1) No Indian ship and no other ship chartered by a citizen of India or a company shall be taken to sea from a port or place within or outside India except under a licence granted by the Director-General under this section: Indian ships and chartered ships to be licensed.

35 Provided that the Central Government, if it is of opinion that it is necessary or expedient in the public interest so to do, may, by notification in the Official Gazette, exempt any class of ships chartered by a citizen of India or a company from the provisions of this sub-section.

(2) A licence granted under this section may be—

(a) a general licence;

(b) a licence for the whole or any part of the coasting trade of India; or

(c) a licence for a specified period or voyage.

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(3) A licence granted under this section shall be in such form and shall be valid for such period as may be prescribed, and shall be subject to such conditions as may be specified by the Director-General.

Licensing of ships for coasting trade.

407. (1) No ship other than an Indian ship or a ship chartered by a citizen of India or a company which satisfies the requirements specified in clause (b) of section 21, shall engage in the coasting trade of India except under a licence granted by the Director-General under this section.

(2) A licence granted under this section may be for a specified period or voyage and shall be subject to such conditions as may be specified by the Director-General.

(3) The Central Government may, by general or special order, direct that the provisions of sub-section (1) shall not apply in respect of any part of the coasting trade of India or shall apply subject to such conditions and restrictions as may be specified in the order.

Revocation or modification of licence.

408. (1) The Director-General may, at any time if the circumstances of the case so require, revoke or modify a licence granted under section 406 or section 407.

(2) No licence shall be * revoked or modified under this section unless the person concerned has been given a reasonable opportunity of making a representation against such * revocation or modification, as the case may be.

Licences to be surrendered when they cease to be valid.

409. When a licence under section 406 or section 407 ceases to be valid, the person to whom it was granted shall, without unreasonable delay, return it or cause it to be returned to the Director-General.

No port clearance until licence is produced.

410. No customs collector shall grant a port clearance to a ship in respect of which a licence is required under this Part until after production by the owner, master or agent of such a licence.

Power to give directions.

411. The Director-General may, if he is satisfied that in the public interest or in the interests of Indian shipping it is necessary

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so to do, give, by order in writing, such directions as he thinks fit—

(a) in the case of a ship which has been granted a licence under section 406, with respect to all or any of the following matters:—

5 (i) the ports or places, whether in or outside India, to which, and the routes by which, the ship shall proceed for any particular purpose;

(ii) the diversion of any ship from one route to another for any particular purpose;

10 (iii) the classes of passengers or cargo which may be carried in the ship;

(iv) the order of priority in which passengers or cargo may be taken on or put off the ship at any port or place, whether in or outside India;

15 (b) in the case of a ship which has been granted a licence under section 407 with respect to the order of priority in which passengers or cargo may be taken on the ship at any port or place in India from which she is about to proceed for any port or place on the continent of India at which she is to call in the
20 course of her voyage.

412. (1) The Central Government may, by order published in the Official Gazette, fix in the prescribed manner the rates at which any Indian ship may be hired and the rates which may be charged for the carriage of passengers or cargo by any ship engaged in the coast-
25 ing trade of India.

Power to fix
shipping
rates.

(2) If the Central Government considers that with a view to enabling it to fix the rates under sub-section (1) it is necessary or expedient so to do, it may constitute a Board in the prescribed manner for the purpose of advising it; and such Board may be constituted
30 either generally or for a particular case or route or in respect of rates for the carriage of passengers or cargo or both.

(3) Where an order fixing the rates to be charged for hire or for the carriage of passengers or cargo has been published under sub-section (1), no owner, master or agent of a ship shall charge rates
35 exceeding the rates so fixed.

413. The Director-General may, by notice, require—

Power of
Director-
General
to call for
information.

(a) the owner, master or agent of any ship in respect of which a licence granted by the Director-General under this Act is in force; or

40 (b) the owner, master or agent of any ship in respect of which any directions have been or may be given under clause (b) of section 411;

to furnish within the period specified in the notice information as to—

- (i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying or has carried during any specified period; 5
- (ii) the rates of passenger fares and freight charges applicable to the ship;
- (iii) any other matter which may be prescribed.

Power to
make rules.

414. (1) The Central Government may make rules for carrying out the purposes of this Part. 10

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which, the period or voyage for which, and the conditions subject to which licences under this Part 15 may be granted, the particulars to be included therein and the fees payable therefor;

(b) the manner in which rates shall be fixed under section 412;

(c) the constitution and functions of a Board constituted 20 under section 412 and the procedure to be followed by it in the discharge of its functions;

(d) the matters regarding which information may be required to be furnished under section 413.

PART XV

25

SAILING VESSELS

Application
of Part.

415. Save as otherwise provided, this Part applies to every sea-going sailing vessel owned by a citizen of India or a company which satisfies the requirements specified in clause (b) of section 21.

Decision of
question
whether a
vessel is a
sailing vessel.

416. If any question arises whether a vessel is a sailing vessel or 30 not for the purposes of this Part, it shall be decided by the Director-General and his decision thereon shall be final.

Certificate of
registry.

417. (1) Every sailing vessel shall be registered in accordance with the provisions of this section.

(2) The owner of every sailing vessel shall make an application 35 in the prescribed form to a registrar for the grant to him of a certificate of registry in respect of the vessel.

(3) The owner of every sailing vessel in respect of which an application under sub-section (2) is made, shall cause the tonnage of the vessel to be ascertained in the prescribed manner.

(4) The registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application and shall enter in a register to be kept for the purpose (hereinafter referred to as sailing vessels register) the following particulars in respect of the vessel, namely:—

(a) the name of the sailing vessel, the place where she was built, and the port to which she belongs;

(b) the rig, type and tonnage of the vessel;

(c) the name, occupation and residence of the owner of the vessel;

(d) the number assigned to the vessel;

(e) the mortgages, if any, effected by the owner in respect of the vessel;

(f) such other particulars as may be prescribed.

(5) After the particulars in respect of the vessel have been entered in the sailing vessels register under sub-section (4), the registrar shall grant to the applicant a certificate of registry in the prescribed form.

(6) The owner of every sailing vessel shall pay for each certificate of registry a fee according to such scale as may be prescribed by the Central Government, having regard to the tonnage of the vessel, but in no case exceeding one rupee per ton of its gross tonnage.

(7) A sailing vessel requiring to be registered under this Part but not so registered may be detained by a proper officer until the owner or tindal produces a certificate of registry in respect of the vessel.

418. The owner of every sailing vessel so registered shall, before the vessel begins to take any cargo or passengers, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the sailing vessel, the name by which the vessel has been registered, the number assigned to the vessel by the registrar and the port to which she belongs, and shall take all steps to ensure that the vessel remains painted as required by this section.

Particulars relating to sailing vessel to be painted.

419. A change shall not be made in the name of a sailing vessel registered under this Part except in accordance with the rules made in this behalf.

Change of name of sailing vessel.

Prevention
of overload-
ing or over-
crowding.

420. (1) The Central Government may make rules regulating the carriage of cargo or passengers in sailing vessels and the protection of life and property * * * on board such vessels.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the assignment of free board to sailing vessels;
- (b) the marking of such free board on such vessels and the maintenance of such markings;
- (c) the survey of the space allotted to passengers on board such vessels;
- (d) the scale and type of accommodation to be provided for each passenger.

(3) Any sailing vessel attempting to ply or proceed to sea without free board markings or any sailing vessel which has been so loaded as to submerge such markings may be detained by a proper officer until free board markings are made in accordance with the rules made in this behalf or the vessel is so loaded that such markings are not submerged.

(4) Nothing in this section relating to free board, shall apply to any sailing vessel in respect of which a load line has been assigned under Part IX.

Certificate of
inspection.

421. (1) No sailing vessel shall ply or proceed to sea unless there is in force in respect of that vessel a certificate of inspection granted under this Part, the same being applicable to the voyage on which she is about to ply or proceed.

(2) A certificate of inspection in respect of a sailing vessel shall specify—

- (a) the name and tonnage of the vessel;
- (b) the names of the owner and tindal of the vessel;
- (c) the maximum number of the crew and the maximum number of passengers which the vessel is fit to carry;
- (d) the limits within which the vessel may be used for the purpose of trading and the terms and conditions subject to which she may be used for such trading;

(e) the particulars of the free board assigned to the vessel; and shall contain a statement to the effect that her hull, rigging and equipment (including auxiliary machinery, if any) are in good condition.

(3) Every certificate of inspection shall be in force from the date of issue for a period of one year or for such shorter period as may be specified therein:

Provided that where a sailing vessel is on a voyage outside India at the time of expiry of the certificate, the certificate shall continue to be valid until her first arrival at a port in India after the expiry of such period.

- 5 (4) No customs collector shall grant a port clearance to a sailing vessel registered under this Part until after the production by the owner or tindal thereof of a certificate of inspection granted under this Part in respect of the vessel.

422. (1) Where at any time subsequent to the issue of a certificate of inspection in respect of a sailing vessel, the Director-General has reason to believe that the vessel is not fit to ply or proceed to sea, he may, after giving the owner an opportunity of making a representation, cancel such certificate. Cancellation, re-issue, etc., of certificate of inspection.

(2) Where at any time subsequent to the issue of a certificate of inspection a sailing vessel has undergone material alteration or has met with accident or, where the certificate of inspection of a sailing vessel has been cancelled under sub-section (1) and an application is made for the re-issue of such certificate or for the grant of a fresh certificate, the registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such vessel to be inspected; and if the authority inspecting the vessel reports that she is not fit to ply or proceed to sea or that her hull, rigging and equipment (including auxiliary machinery, if any) are defective, such certificate shall not be re-issued or issued until the vessel is, in the opinion of such authority, fit to ply or proceed to sea or the defect is rectified to the satisfaction of such authority.

423. When a sailing vessel is so altered as not to correspond with the particulars relating to her entered in the certificate of registry, the owner of such vessel shall make a report of such alteration to the registrar of the port where the vessel is registered, and the registrar shall either cause the alteration to be registered, or direct that the vessel be registered anew, in accordance with such rules as may be made in this behalf. Registry of alterations.

424. The registry of a sailing vessel may be transferred from one port to another in India on the application of the owner or tindal of the vessel in accordance with such rules as may be made in this behalf. Transfer of registry.

425. If a sailing vessel is lost, destroyed or rendered permanently unfit for service, the owner of such vessel shall with the least practicable delay report the fact to the registrar of the port where the vessel is registered and also forward to him along with the Closure of registry.

report, the certificate of registry in respect of the vessel; and thereupon the registrar shall have the registry of the vessel closed.

Restrictions
on transfer
of sailing
vessels.

426. No person shall transfer or acquire any sailing vessel registered under this Part or any interest therein without the previous approval of the Central Government; and any transaction effected in contravention of this section shall be void and unenforceable.

Mortgages
of sailing
vessels.

427. (1) Every mortgage of a sailing vessel or of any interest therein shall be registered by the owner of such vessel or interest with the registrar.

(2) The registrar shall enter every such mortgage in the sailing vessels register in the order in which it is registered with him.

(3) If there are more mortgages than one recorded in respect of the same sailing vessel or interest therein, the mortgagees shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is registered with the registrar and not according to the date of each mortgage itself.

Fraudulent
use of certi-
ficate of re-
gistry or
certificate
of inspection,
etc., pro-
hibited.

428. (1) No person shall use or attempt to use the certificate of registry or the certificate of inspection granted in respect of a sailing vessel for any purpose other than the lawful navigation of the vessel.

(2) No person shall use or attempt to use for the navigation of a sailing vessel a certificate of registry or a certificate of inspection not granted in respect of that vessel.

(3) No person who has in his possession or under his control the certificate of registry or the certificate of inspection of a sailing vessel shall refuse or omit without reasonable cause to deliver such certificate on demand to the owner of the vessel.

Statement re-
lating to crew
of sailing
vessel to be
maintained.

429. (1) Every owner or tinal of a sailing vessel shall maintain or cause to be maintained in the prescribed form a statement of the crew of the vessel containing with respect to each member thereof—

- (a) his name;
- (b) the wages payable to him;
- (c) the names and addresses of his next-of-kin;
- (d) the date of commencement of his employment; and
- (e) such other particulars as may be prescribed.

(2) Every change in the crew of the vessel shall be entered in the statement under sub-section (1).

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the registrar of the port of registry of the vessel concerned.

430. (1) If any owner or tindal of a sailing vessel in the course of her voyage, has jettisoned or claims to have jettisoned the whole or any part of the cargo of the vessel on account of abnormal weather conditions or for any other reason, he shall immediately after arrival of the vessel at any port in India give notice of such jettisoning to the proper officer at such port; and such notice shall contain full particulars of the cargo jettisoned and the circumstances under which such jettisoning took place.

Inquiry into jettisoning of cargo.

(2) When any such officer receives notice under sub-section (1) or has reason to believe that the cargo of any sailing vessel in his port has been jettisoned, he shall forthwith report in writing to the Central Government the information he has received and may proceed to make an inquiry into the matter.

431. (1) A sailing vessel not owned by a citizen of India or a company which satisfies the requirements specified in clause (b) of section 21, shall not engage in the coasting trade of India without the written permission of the Director-General.

Non-Indian sailing vessels not to engage in coasting trade without permission.

(2) The Director-General may, when granting such permission, impose such terms and conditions as he thinks fit and may require the owner or other person in charge of the vessel to deposit with him such amount as he thinks necessary for the due fulfilment of such terms and conditions.

(3) No customs collector shall grant a port clearance to a sailing vessel not registered under this Part which engages or attempts to engage in the coasting trade of India until after the production by the owner or person in charge thereof of the written permission of the Director-General.

432. (1) If any sailing vessel registered in any country outside India arrives in or proceeds from a port or place in India in an overloaded condition, the person in charge of the vessel shall be guilty of an offence under this section.

Detention of overloaded non-Indian sailing vessels.

(2) A sailing vessel shall be deemed to be in an overloaded condition for the purposes of this section—

(a) where the vessel is loaded beyond the limit specified in any certificate issued in the country in which she is registered; or

(b) in case no such certificate has been issued in respect of the vessel, where the actual free board of the vessel is less than

the free board which would have been assigned to her had she been registered under this Part.

(3) Any sailing vessel which is in an overloaded condition and is about to proceed from a port or place in India may be detained until she ceases to be in an overloaded condition; but nothing herein contained shall affect the liability of the person in charge of the vessel in respect of such overloading under any other provision of this Act.

Power of courts to rescind contracts between owner and tindal.

433. Where a proceeding is instituted in any court in respect of any dispute between the owner of a sailing vessel and the tindal arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if having regard to all the circumstances of the case it thinks it just to do so, may rescind any contract between the owner and the tindal upon such terms as the court may think just and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

Application to sailing vessels of other provisions relating to ships.

434. The Central Government may, by notification in the Official Gazette, direct that any provisions of this Act other than those contained in this Part which do not expressly apply to sailing vessels shall also apply to sailing vessels subject to such conditions, exceptions and modifications as may be specified in the notification.

Power to make rules respecting sailing vessels.

435. (1) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which applications for certificates of registry shall be made and the particulars which such applications should contain;

(b) the manner in which the tonnage of sailing vessels shall be ascertained;

(c) the manner in which free board is to be assigned to sailing vessels and the free board markings are to be made;

(d) the form in which certificates of registry and certificates of inspection may be issued;

(e) the issue of duplicate copies of certificates of registry and certificates of inspection where the originals are destroyed, lost, mislaid, mutilated or defaced;

(f) the manner in which, and the time within which, applications for the registry of alterations in the certificates

of registry of sailing vessels shall be reported, the endorsement of the particulars of alteration on the certificates of registry, the grant of provisional certificates in cases where sailing vessels are directed to be registered anew, the period for which
5 provisional certificates shall be valid and all other matters ancillary to the registry of alterations;

(g) the manner in which applications for the transfer of registry of sailing vessels from one port to another in India shall be made and the procedure to be allowed by the registrar in connection with such transfer;
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(h) the authorities by which sailing vessels are to be inspected and certificates of inspection are to be issued under this Part;

(i) the criteria by which sailing vessels may be classified for the purpose of determining the limits within which they may be used for purposes of trading.
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(j) the fixing of the rates of freight which may be charged by sailing vessels for specified goods or for any class of goods in relation to the coasting trade of India;

(k) the equipment which sailing vessels or any class of sailing vessels should carry including equipment relating to life saving and fire appliances, lights, shapes and signals required by the collision regulations;
20

(l) the survey of space provided for passengers of sailing vessels and the scale and type of accommodation to be provided for such passengers;
25

(m) the authority to which information regarding certificates of registry, registry of alterations and issue of fresh certificates of registry under this Part is to be sent by registrars;

(n) the qualifications to be possessed by tindals and other members of the crew of sailing vessels, the issue of permits to tindals and of identity cards to other members of the crew, the conditions for the issue of such permits and identity cards and the cancellation or suspension thereof;
30

(o) the fees which may be levied for the issue or re-issue of certificates of registry or certificates of inspection and for all other purposes of this Part;
35

(p) the form in which a contract for chartering a sailing vessel shall be executed;

(q) the form in which a contract for the carriage of goods by sailing vessels shall be executed;
40

(r) the reservation, in the public interest or in the interest of sailing vessels, of specified commodities for transport by sailing vessels either generally or in specified sectors of the coasting trade or between specified ports and the conditions subject to which such reservation may be made;

(s) any other matter which has to be or may be prescribed.

PART XVI

PENALTIES AND PROCEDURE

Penalties

Penalties.

436. (1) Any person who contravenes any provision of this Act or fails to comply with any provision thereof which it was his duty to comply with, shall be guilty of an offence; and if in respect of any such offence no penalty is specially provided in sub-section (2), he shall be punishable with fine which may extend to two hundred rupees.

(2) The offences mentioned in the second column of the following table shall be punishable to the extent mentioned in the fourth column of the same with reference to such offences respectively.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
1	If the owner or master of an Indian ship fails to comply with or contravenes sub-section (2) of section 28.	28(2)	Fine which may extend to one thousand rupees.
2	If a person wilfully makes a false statement in the builder's certificate referred to in section 30.	30	Fine which may extend to one thousand rupees.
3	If a person contravenes sub-section (2) of section 35.	35(2)	Fine which may extend to one thousand rupees.
4	If the owner or master of an Indian ship commits an offence under sub-section (4) of section 35.	35(4)	Fine which may extend to one thousand rupees.
5	If a master, without reasonable cause, fails to comply with sub-section (4) of section 36.	36(4)	Fine which may extend to five hundred rupees.
6	If a person makes illegal use of a certificate of registry stated to have been mislaid, lost or destroyed or if a person entitled to the certificate of registry obtains it at any time afterwards but fails to deliver the said certificate to the registrar as required by sub-section (5) of section 36.	36(5)	Fine which may extend to one thousand rupees.
7	If a master fails to deliver to the registrar the certificate of registry as required by sub-section (2) or sub-section (3) of section 38.	38(2), 38(3)	Fine which may extend to one thousand rupees.
8	If an owner fails to comply with sub-section (1) of section 39 or if a master fails to comply with sub-section (2) of that section.	39(1), 39(2)	Fine which may extend to one thousand rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
5	9 If any person contravenes sub-section (1) of section 42.	42(1)	Fine which may extend to one thousand rupees.
10	10 If any person acts or suffers any person under his control to act in contravention of section 55 or omits to do or suffers any person under his control to omit to do anything required under that section.	55	Fine which may extend to one thousand rupees; but nothing herein shall affect the power to detain the ship under sub-section (4) of that section.
15	11 If an owner fails to make an application for registering anew a ship or for registering an alteration of a ship under section 56.	56	Fine which may extend to one thousand rupees, and in addition, a fine which may extend to fifty rupees for every day during which the offence continues after conviction.
20	12 If any distinctive national colours except those declared under sub-section (1) of section 63 are hoisted on board any Indian ship.	63(1)	The master, owner and every other person hoisting the colours shall be liable to fine which may extend to five thousand rupees.
25	13 If a person contravenes section 64.	64	Imprisonment which may extend to two years, or fine which may extend to five thousand rupees, or both.
30	14 If an owner or master contravenes section 65.	65	Imprisonment which may extend to two years, or fine which may extend to five thousand rupees, or both.
35	15 If default is made in complying with section 66.	66	The master shall be liable to fine which may extend to one thousand rupees.
40	16 If any person in the case of any declaration made in the presence of or produced to a registrar under Part V or in any document or other evidence produced to such registrar—	General	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.
45	(a) wilfully makes or assists in making or procures to be made, any false statement concerning the title to or ownership of or the interest existing in any ship or any share in a ship; or		
50	(b) utters, produces or makes use of any declaration or document containing any such false statement knowing the same to be false.		
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Serial No.	Offences	Section of this Act to which offence has reference	Penalties	
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17	If any person— (a) having been engaged as one of the officers referred to in section 76 goes to sea as such officer without being duly certificated; or (b) employs a person as an officer without ascertaining that the person is duly certificated.	General	Fine which may extend to five hundred rupees.	10
18	If a master or owner fails to comply with any of the requirements of section 93.	93	Fine which may extend to two hundred rupees.	20
19	If a master fails without reasonable cause to comply with any of the requirements of section 94.	94	Fine which may extend to one hundred rupees.	
20	If any person acts in contravention of sub-section (2) of section 95 or section 96 or section 97.	95(2), 96, 97.	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed.	25
21	If a person engages or carries any seaman to sea in contravention of sub-section (2) of section 98 or section 99.	98(2), 99	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed.	30
22	If a master carries any seaman to sea without entering into an agreement with him in accordance with this Act.	100	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed.	35
23	If a master enters into an agreement with any seaman for a scale of provisions less than the scale fixed under clause (g) of sub-section (2) of section 101.	101(2)(g)	Fine which may extend to two hundred rupees.	40
24	If a master fails, without reasonable cause, to comply with any of the requirements of section 105, sub-section (4) of section 106 or section 107.	105, 106 (4), 107.	Fine which may extend to fifty rupees.	45
25	If any person— (a) is carried to sea to work in contravention of section 109, section 110 or section 111; or (b) is engaged to work in any capacity in a ship in contravention of section 109, section 110 or section 111 on a false representation by his parent or	109, 110, 111.	The master shall be liable to a fine which may extend to fifty rupees ; the parent or guardian shall be liable to a fine which may extend to fifty rupees.	50
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Serial No.	Offences	Section of this Act to which offence has reference	Penalties
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10	guardian that the young person is of an age at which such engagement is not in contravention of these sections.		
26	If a master refuses or neglects to produce for inspection any certificate of physical fitness delivered to him under section 111 when required to do so by a shipping master.	General	Fine which may extend to fifty rupees.
15			
27	If the master of a ship, where there is no agreement with the crew, fails to keep the register of young persons required to be kept under section 112 or refuses or neglects to produce such register for inspection when required so to do by a shipping master.	General	Fine which may extend to two hundred rupees.
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28	If the master of a ship other than an Indian ship engages a seaman in India otherwise than in accordance with section 114.	114	Fine which may extend to one hundred rupees for every seaman so engaged.
25			
29	If any owner, master or agent wilfully disobeys any order under section 115.	115	Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both.
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30	If a master fails to comply with section 116.	116	Fine which may extend to one hundred rupees.
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31	If any person obstructs any officer referred to in section 117 in the exercise of his powers under that section.	General	Fine which may extend to one hundred rupees.
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32	If a master or owner acts in contravention of sub-section (1) or sub-section (2) of section 118.	118(1), 118(2).	Fine which may extend to one hundred rupees.
33	If a master fails to comply with the provisions of sub-section (1) of section 119, or, without reasonable cause, fails to return the certificate of competency to the officer concerned as required by sub-section (2) of that section.	119(1), 119(2).	Fine which may extend to two hundred rupees.
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34	If a master fails to comply with section 120.	120	Fine which may extend to one hundred rupees.
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Serial No.	Offences	Section of this Act to which offence has reference	Penalties	5
35	If any person— (a) forges or fraudulently alters any certificate of discharge or a certificate as to the work of a seaman or a continuous discharge certificate or a copy of any such certificate; or (b) fraudulently uses any certificate of discharge or a certificate as to the work of a seaman or a continuous discharge certificate or a copy of any such certificate which is forged or altered or does not belong to him	General	Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or 10 both.	15 20
36	If any person acts in contravention of sub-section (1) of section 121.	121(1)	Fine which may extend to one thousand rupees	25
37	If a master— (a) fails without reasonable cause to comply with sub-section (1) or sub-section (3) of section 122, or (b) delivers a false statement for the purpose of sub-section (2) of section 122	122(1), 122(3). 122(2)	Fine which may extend to two hundred rupees	30
38	If a master fails, without reasonable cause, to comply with section 125.	125	Fine which may extend to fifty rupees	
39	If a master or owner pays the wages of a seaman in a manner contrary to sub-section (1) of section 128.	128(1)	Fine which may extend to one hundred rupees	35
40	If a master fails to comply with section 131.	131	Fine which may extend to one hundred rupees.	
41	If any person fails, without reasonable cause, to comply with any requisition under section 133.	133	Fine which may extend to fifty rupees.	40
42	If a seaman contravenes sub section (3) of section 135	135(3)	Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both, but nothing herein shall take away or limit any other remedy which any person would otherwise have for breach of contract or refund of the money advanced or otherwise.	45 50

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
43	If any person commits a breach of any term of any award which is binding on him under sub-section (5) of section 150.	General	Imprisonment which may extend to one month, or fine which may extend to one thousand rupees, or both.
44	If a seaman or an owner contravenes section 151.	151	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.
45	If a master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice or to making in the official log book the proper entries relating thereto or to the payment or delivery of such property as required by sub-section (1) of section 154.	154(1)	Fine which may extend to three times the value of the property not accounted for or if such value is not ascertained, to five hundred rupees, but nothing herein shall affect his liability under sub-section (1) of section 154 to account for the property not accounted for.
46	If the master of an Indian ship fails or refuses without reasonable cause to receive on board his ship or to give a passage or subsistence to, or to provide for, any seaman contrary to sub-section (1) of section 163.	163(1)	Fine which may extend to one thousand rupees in respect of each such seaman.
47	(a) If a master fails to comply with, or contravenes any provision of, sub-section (3) of section 168;	168(3)	Fine which may extend to two hundred rupees, but nothing herein shall affect the power to detain the ship under sub-section (2) of section 168;
48	(b) if a master or any other person having charge of any provisions or water on board a ship liable to inspection under section 168 refuses or fails to give the person making the inspection reasonable facility for the purpose.	168(6)	Fine which may extend to two hundred rupees.
49	If a master fails to furnish provisions to a seaman in accordance with the agreement entered into by him and the court considers the failure to be due to the neglect or default of the master, or if a master furnishes to a seaman provisions which are bad in quality or unfit for use.	General	Fine which may extend to five hundred rupees, but nothing herein shall affect the claim for compensation under sub-section (1) of section 169.
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55	49 If a master fails without reasonable cause to comply with section 171.	171	Fine which may extend to one hundred rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties	5
50	(a) If any requirement of section 172 is not complied with in the case of any ship ; or (b) if obstruction is caused to the port health officer in the discharge of his duty.	172	The owner shall be liable to fine which may extend to two hundred rupees unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default ; the owner or master shall be liable to fine which may extend to two hundred rupees unless he can prove that the obstruction was caused without his knowledge or connivance.	10 15 20
51	If any foreign-going ship referred to in sub-section (1) of section 173 does not carry on board a duly qualified medical officer.	173(1)	The owner shall be liable for each voyage of the ship made without having on board a duly qualified medical officer, a fine which may extend to two hundred rupees.	25
52	If a master fails, without reasonable cause, to comply with section 184.	184	Fine which may extend to one hundred rupees.	
53	If any person fails to comply with sub-section (1) of section 187.	187(1)	Fine which may extend to one hundred rupees.	30
54	If any person contravenes section 188.	188	Fine which may extend to fifty rupees.	
55	If any person goes on board a ship contrary to section 189.	189	Fine which may extend to two hundred rupees.	
56	If a master, seaman or apprentice contravenes section 190.	190	Imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both.	35
57	If a seaman or apprentice— (a) deserts his ship;	191(1)(a)	He shall be liable to forfeit all or any part of the property he leaves on board and of the wages he has then earned and also if the desertion takes place at any place not in India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to	40 45 50 55

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
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10			substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also to imprisonment which may extend to three months;
15	(b) contravenes clause (b) of sub-section (x) of section 191.	191(x)(b)	he shall, if the contravention does not amount to desertion, be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute and also to imprisonment which may extend to two months.
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58	If any person contravenes sub-section (3) of section 193.	193(3)	Fine which may extend to two hundred rupees.
59	If a seaman or apprentice is guilty of the offence specified in—	194	
30	(i) clause (a) of section 194;		Forfeiture out of his wages of a sum not exceeding one month's pay;
35	(ii) clause (b) of section 194;		forfeiture out of his wages of a sum not exceeding two days' pay;
40	(iii) clause (c) of section 194;		imprisonment which may extend to one month and also for every twenty-four hours of continuance of such disobedience or neglect, forfeiture out of his wages of a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;
45	(iv) clauses (d) and (e) of section 194;		imprisonment which may extend to three months, or fine which may extend to five hundred rupees, or both;
50	(v) clause (f) of section 194.		forfeiture out of his wages of a sum equal to the loss sustained and also imprisonment which may extend to three months
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Sl. No.	Offences	Section of this Act to which offence has reference	Penalties	
60	If any master fails to comply with section <u>197</u> .	<u>197</u>	Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both.	10
61	If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name.	General	Fine which may extend to fifty rupees.	15
62	If a master or owner neglects or refuses to pay over the fine under sub-section (x) of section <u>202</u> .	<u>202</u>	Fine which may extend to six times the amount of the fine retained by him.	20
63	If any person contravenes section <u>203</u> .	<u>203</u>	Fine which may extend to one hundred rupees.	
64	If any person contravenes section <u>204</u> .	<u>204</u>	Fine which may extend to one hundred rupees.	
65	If any person goes to sea in a ship contrary to sub-section (x) of section <u>205</u> .	<u>205(x)</u>	Imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both.	25
66	(a) If any person wilfully disobeys the prohibition contained in clause (a) of section <u>206</u> ; or	<u>206(a)</u>	Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both.	30
	(b) If any master or owner refuses or neglects to deposit any wages, money or other property or sum in the manner required by clause (b) of section <u>206</u> .	<u>206(b)</u>	Fine which may extend to five hundred rupees.	35
67	If a master fails to deliver or transmit the documents referred to in sub-section (x) of section <u>208</u> or section <u>209</u> as*provided therein.	<u>208(x)</u> , <u>209</u> .	Fine which may extend to five hundred rupees.	40
68	If a master contravenes sub-section (x) of section <u>210</u> .	<u>210(x)</u>	Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both.	45
69	If any person harbours or secretes any deserter knowing or having reason to believe that he has deserted.	General	Fine which may extend to two hundred rupees.	
70	If a master fails to comply with sub-section (a) of section <u>214</u> .	<u>214(a)</u>	Fine which may extend to one hundred rupees.	50

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
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10	71 (a) If sub-section (1) of section 215 is not complied with ;	215(1)	The master shall be liable to fine which may extend to fifty rupees, if no other penalty is provided in this Act ;
	(b) if any person contravenes sub-section (2) of section 215.	215(2)	fine which may extend to three hundred rupees.
15	72 If any person wilfully destroys or mutilates or renders illegible any entry in any official log book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log book.	General	Imprisonment which may extend to one year.
20	73 If a master fails, without reasonable cause, to comply with section 216.	216	Fine which may extend to two hundred rupees.
	74 If a master or owner fails, without reasonable cause, to comply with section 217.	217	Fine which may extend to one hundred rupees.
25	75 If an owner, agent or master without reasonable cause neglects to give the notice required by sub-section (1) of section 229.	229(1)	Fine which may extend to five hundred rupees.
30	76 If an owner or master, without reasonable cause fails to deliver a certificate under section 230.	230	Fine which may extend to one hundred rupees.
	77 If a certificate of survey is not affixed or kept affixed as required by section 231.	231	The owner or master shall be liable to fine which may extend to two hundred rupees.
35	78 If a ship carries or attempts to carry passengers in contravention of sub-section (1) of section 220 or has on board a number of passengers in contravention of sub-section (1) of section 232.	220(1), 232(1).	The owner, agent or master shall be liable to fine which may extend to one thousand rupees.
40	79 (a) If a person is guilty of any offence specified in sub-section (1) of section 233 ;	233(1)	The person concerned shall be liable to fine which may extend to fifty rupees; but this liability shall not prejudice the recovery of the fare, if any, payable by him ;
45	(b) if a person contravenes sub-section (2) of section 233.	233(2)	fine which may extend to three hundred rupees.
50	80 If an unberthed passenger or pilgrim ship departs or proceeds on a voyage from or discharges unberthed passengers or pilgrims at any port or place within India in contravention of sub-section (1) of section 237, or if a person is received as an unberthed passenger or pilgrim on board any such ship in contravention of sub-section (2) of that section.	237 (1), 237 (2).	The master, owner or agent shall be liable to fine which may extend to one thousand rupees.
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Serial No.	Offences	Section of this Act to which offence has reference	Penalties	
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81	If the master, owner or agent of an unberthed passenger or pilgrim ship fails to give the notice required by sub-section (1) of section 238.	238(1)	Fine which may extend to two hundred rupees.	
82	If a person impedes or refuses to allow any entry or inspection authorised by section 239.	239	Fine which may extend to five hundred rupees.	10
83	If a master or owner fails to comply with section 246.	246	Fine which may extend to two hundred rupees.	15
84	If the master, owner or agent of an unberthed passenger or pilgrim ship, after having obtained any of the certificates mentioned in Part VIII, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her unberthed passengers or pilgrims or other matters to which the certificate relates.	General	Imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.	20
85	If the master of an unberthed passenger or pilgrim ship or any contractor employed by him for the purpose contravenes section 247.	247	Fine which may extend to thirty rupees for every unberthed passenger or pilgrim, who has sustained detriment by the omission to supply the prescribed provisions.	30
86	If an unberthed passenger or pilgrim ship carries unberthed passengers or pilgrims in contravention of sub-section (1) of section 248.	248 (1)	The master, owner or agent shall be liable to fine which may extend to two thousand rupees.	35
87	If a master, owner or agent contravenes section 249.	249	Fine which may extend to one thousand rupees.	40
88	If an owner, agent or master contravenes section 252.	252	Fine which may extend to one thousand rupees.	
89	If the master, owner or agent fails to comply with sub-section (1) of section 255.	255(1)	Fine which may extend to two hundred rupees.	45
90	If medical officers or medical attendants are not carried on an unberthed passenger ship as required by sub-section (1) or sub-section (2) of section 259, as the case may be; or if the ship is not provided with a hospital, medical stores and equipment as required by sub-section (3) of that section.	259	The master, owner or agent shall be liable for each voyage made in contravention of section 259 to fine which may extend to five hundred rupees.	50
91	If an owner, agent or master contravenes section 260.	260	Fine which may extend to one thousand rupees.	55

5	Serial No.	Offences	Section of this Act to which offence has reference	Penalties
10	92	(a) If medical officers and attendants are not carried on a pilgrim ship in accordance with sub-section (1) of section 269; or	269 (1)	The master, owner or agent shall be liable for each voyage made in contravention of sub-section (1) of section 269 to fine which may extend to three hundred rupees ;
15		(b) If a medical officer or attendant on a pilgrim ship contravenes sub-section (3) of section 269.	269 (3)	fine which may extend to two hundred rupees.
	93	If a master, owner or agent contravenes sub-section (4) of section 278.	278 (4)	Fine which may extend to two thousand rupees.
20	94	If section 291 is not complied with in the case of a ship.	291	The master or owner shall be liable to fine which may extend to one thousand rupees.
25	95	If section 292 is not complied with in the case of a ship.	292	The master or owner shall be liable to fine which may extend to two hundred rupees.
	96	If any ship proceeds or attempts to proceed to sea in contravention of section 297.	297	The master or owner shall be liable to fine which may extend to two hundred rupees.
30	97	If any ship proceeds or attempts to proceed to sea without carrying on board the information required by sub-section (1) of section 298.	298 (1)	The master or owner shall be liable to fine which may extend to one thousand rupees.
35	98	If any ship proceeds or attempts to proceed to sea in contravention of section 307.	307	The master or owner shall be liable to fine which may extend to—
40				(a) in the case of a passenger ship, to one hundred rupees for every passenger carried on board the ship but without prejudice to any other remedy or penalty under this Act; and
45				(b) in the case of a ship other than a passenger ship, to one thousand rupees.
50	99	If any ship proceeds or attempts to proceed to sea in contravention of section 312.	312	The master or owner shall be liable to fine which may extend to one thousand rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties	5
100	If any ship is loaded in contravention of section <u>313</u> .	<u>313</u>	The master or owner shall be liable to fine which may extend to ten thousand rupees and to such additional fine not exceeding one thousand rupees for every inch or fraction of an inch by which the appropriate load lines on each side of the ship are submerged or would have been submerged if the ship had been in salt waters and had no list, as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship is or would have been increased by reason of the submersion : Provided that it shall be a good defence for the master or owner to prove that a contravention was due solely to deviation or delay caused solely by stress of weather or other circumstance which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.	25
101	(a) If the owner or master of an Indian ship contravenes sub-section (1) of section <u>314</u> ; or (b) if any person contravenes sub-section (2) of section <u>314</u> .	314(1) } 314(2) }	Fine which may extend to one thousand rupees.	40
102	If a master or owner fails to deliver the certificate as required under sub-section (5) of section <u>317</u> .	317(5)	Fine which may extend to one hundred rupees.	
103	If a master proceeds or attempts to proceed to sea in contravention of sub-section (1) of section <u>318</u> .	318(1)	Fine which may extend to one thousand rupees.	45
104	(a) If the owner of an Indian ship fails to comply with clause (a) of sub-section (1) of section <u>319</u> , or (b) if a master fails to comply with clause (b) of sub-section (1), or clause (a) or clause (b) of sub-section (2) of section <u>319</u> .	319(1)(a) } 319(1)(b), 319(2) }	Fine which may extend to two hundred rupees.	50
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Serial No.	Offences	Section of this Act to which offence has reference	Penalties
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105	If a master fails to comply with sub-section (1) of section 320.	320(1)	Fine which may extend to one hundred rupees.
10	106 (a) If a master, owner or agent is guilty of an offence under sub-section (1) of section 332; or	332(1)	} Fine which may extend to three thousand rupees ;
	(b) if the owner or master of a ship is guilty of an offence under sub-section (2) of section 332 ; or	332(2)	
15	(c) if a master fails to deliver any notice required by sub-section (3) of section 332 or if in any such notice he makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular.	332(3)	fine which may extend to one thousand rupees.
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25	107 If a ship is loaded in contravention of sub-section (1) of section 333.	333(1)	The master or owner shall be liable to fine which may extend to ten thousand rupees and to an additional fine not exceeding one thousand rupees for every inch or fraction of an inch by which the appropriate sub-division load line on each side was submerged or would have been submerged if the ship had no list, as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.
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45	108 If a person is guilty of an offence under sub-section (1) or if a master is guilty of an offence under sub-section (2) of section 334.	334(1), 334(2).	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.
50	109 If a master or person in charge of a ship fails, without reasonable cause, to comply with section 348.	348	Imprisonment which may extend to three months, or fine which may extend to three thousand rupees, or both.
55	110 If a master fails to comply with section 349.	349	Fine which may extend to two hundred rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties	
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111	If the owner or master fails, without reasonable cause, to comply with section <u>350</u> .	<u>350</u>	Fine which may extend to five hundred rupees.	
112	If the owner or agent fails, without reasonable cause, to comply with section <u>351</u> .	<u>351</u>	Fine which may extend to 10 five hundred rupees.	
113	If any person contravenes section <u>353</u>	<u>353</u>	Fine which may extend to five hundred rupees.	
114	If a master fails to comply with section <u>354</u> .	<u>354</u>	Fine which may extend to 15 five hundred rupees.	
115	(a) If a master fails to comply with sub-section (1) or sub-section (2) of section <u>355</u> ; or	<u>355(1)</u> , <u>355(2)</u>	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or 20 both;	
	(b) if a master fails to comply with sub-section (5) of section <u>355</u> .	<u>355(5)</u>	Fine which may extend to one thousand rupees.	
116	If any person bound to give notice under sub-section (2) of section <u>358</u> fails to give such notice.	<u>358 (2)</u>	Fine which may extend to five hundred rupees and 25 in default of payment, simple imprisonment which may extend to three months.	
117	If a master or ship's officer fails to comply with section <u>378</u> .	<u>378</u>	Fine which may extend to five hundred rupees.	30
118	If any person wilfully disobeys any direction of the receiver of wreck under section <u>392</u> .	<u>392</u>	Fine which may extend to five hundred rupees.	
119	If the owner or occupier of any land impedes or in any way hinders any person in the exercise of the rights given by section <u>393</u> .	<u>393</u>	Fine which may extend to five hundred rupees.	35
120	(a) If any person omits to give notice of the finding of any wreck to the receiver of wreck as required by clause (a) of section <u>395</u> ; or	<u>395(a)</u>	Fine which may extend to one thousand rupees;	40
	(b) if any person omits to deliver any wreck as required by clause (b) of section <u>395</u> .	<u>395(b)</u>	Fine which may extend to one thousand rupees and in addition forfeiture of all claims to salvage and pay- 45 ment to the owner of such wreck, if the same is claimed, or if the same is unclaimed, to the Government, a penalty, not exceeding 50 twice the value of such wreck.	
121	If any person contravenes any of the provisions of section <u>400</u> .	<u>400</u>	Fine which may extend to five hundred rupees.	

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
122	(a) If a ship is taken to sea in contravention of sub-section (x) of section 406 or if a ship engages in the coasting trade in contravention of sub-section (x) of section 407; or	406(x), 407(x).	The master or owner of the ship or in the case of a ship other than an Indian ship, the master, agent in India of the owner or the charterer of the ship in respect of which the contravention has taken place shall be liable to imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.
15	(b) if, without reasonable excuse, any limitation or condition contained in a licence granted under section 406 or section 407 is contravened.	406, 407.	
123	If a person to whom a licence under section 406 or section 407 has been granted fails to comply with section 409.	409	Fine which may extend to one hundred rupees.
124	(a) If any directions given under section 411 are not complied with; or	411	The owner, master or agent shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees, or both.
25	(b) if the provisions of sub-section (3) of section 412 are contravened.	412(3)	
125	If the owner, master or agent on whom a notice has been served under section 413 fails to furnish the information required within the time specified or in furnishing the information makes any statement which he knows to be false on any material particular.	413	Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both.
126	If a sailing vessel required to be registered under section 417 is not registered in accordance with the provisions of that section.	417	The owner or tindal shall be liable to fine which may extend to five hundred rupees.
127	If the owner fails to comply with section 418.	418	Fine which may extend to two hundred rupees.
128	If the provisions of section 419 are contravened.	419	The owner or tindal shall be liable to fine which may extend to two hundred rupees.
129	If any sailing vessel attempts to ply or proceed to sea without free board markings or is so loaded as to submerge such markings, or plies or proceeds to sea without a certificate of inspection as required by sub-section (x) of section 421, or if any of the terms and conditions specified in such certificate are contravened.	420(3), 421.	The owner or tindal shall be liable to imprisonment which may extend to six months, or to fine which may extend to five hundred rupees, or both.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties	
				5
130	If the owner fails to comply with section <u>423</u> .	<u>423</u>	Fine which may extend to two hundred rupees and in addition a fine which may extend to twenty rupees for every day during which the offence continues after conviction.	10
131	If the owner fails to comply with section <u>425</u> .	<u>425</u>	Fine which may extend to two hundred rupees.	
132	If any person contravenes section <u>426</u> .	<u>426</u>	Fine which may extend to five hundred rupees.	15
133	If any person contravenes any of the provisions of section <u>428</u> .	<u>428</u>	Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both	20
134	If the owner or tindal fails to comply with any of the provisions of section <u>429</u> .	<u>429</u>	Fine which may extend to two hundred rupees.	
135	If the owner or tindal fails to comply with sub-section (1) of section <u>430</u> .	<u>430(1)</u>	Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both.	25
136	(a) If a sailing vessel is engaged in the coasting trade in contravention of sub-section (1) of section <u>431</u> ; or (b) if any of the terms and conditions imposed under sub-section (2) of section <u>431</u> are contravened.	<u>431(1)</u> <u>431(2)</u>	The owner, tindal or agent shall be liable to imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both.	30 35
137	If any person is guilty of an offence under sub-section (1) of section <u>432</u> .	<u>432(1)</u>	Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both.	40
138	(a) If the master is guilty of an offence under sub-section (2) of section <u>444</u> ; or (b) if the owner, master or agent is guilty of an offence under sub-section (3) of section <u>444</u> .	<u>444(2)</u> <u>444(3)</u>	Fine which may extend to one thousand rupees.	45
139	If any person exercises the profession of a ship surveyor in contravention of section <u>450</u> .	<u>450</u>	Fine which may extend to one thousand rupees.	
140	If any person does any act in contravention of sub-section (2) of section <u>454</u> in respect of which no other penalty is provided.	<u>454(2)</u>	Fine which may extend to two hundred rupees.	50
141	If any person is guilty of an offence under sub-section (2) of section <u>456</u> .	<u>456(2)</u>	Fine which may extend to five hundred rupees.	55

Procedure

437. Any person committing any offence under this Act or any ^{Place of trial.} rule or regulation thereunder may be tried for the offence in any place in which he may be found or which the Central Government may, by notification in the Official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

438. The penalties to which masters and owners of unberthed ^{Cognizance of offences.} passenger and pilgrim ships are made liable by section 436 shall be enforced only on information laid at the instance of the certifying officer, or, at any port or place where there is no such officer at the instance of such other officer as the Central Government may specify in this behalf.

439. No court inferior to that of a presidency magistrate or a ^{Jurisdiction of} magistrate of the first class shall try any offence under this Act or ^{Magistrate.} any rule or regulation thereunder.

§ of 1898. 440. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a ^{Special provision regarding punishment} presidency magistrate or a magistrate of the first class to pass any sentence authorized by or under this Act on any person convicted of an offence under this Act or any rule or regulation thereunder.

441. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the ^{Offences by companies.} conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

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Depositions
to be
received in
evidence
when witness
cannot be
produced

442. (1) Whenever, in the course of any legal proceeding under this Act instituted at any place in India before any court or magistrate or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the court, magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any court, justice or magistrate in any other place in India or, if elsewhere, before a Marine Board or before any Indian consular officer, shall be admissible in evidence—

10

(a) if the deposition is authenticated by the signature of the presiding officer of the court or of the justice, magistrate or Marine Board or consular officer, before whom it is made;

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(b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;

(c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed such deposition; and a certificate by such person that the defendant or person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

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Power to
detain
foreign
ship that
has occa-
sioned
damage

443. (1) Whenever any damage has in any part of the world been caused to property belonging to the Government or to any citizen of India or a company by a ship other than an Indian ship and at any time thereafter that ship is found within Indian jurisdiction, the High Court may, upon the application of any person who alleges that the damage was caused by the misconduct or want of skill of the master or any member of the crew of the ship, issue an order directed to any proper officer or other officer named in the order requiring him to detain the ship until such time as the owner, master or consignee thereof has satisfied any claim in respect of the damage or has given security to the satisfaction of the High Court to pay all

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costs and damages that may be awarded in any legal proceedings that may be instituted in respect of the damage, and any officer to whom the order is directed shall detain the ship accordingly.

(2) Whenever it appears that before an application can be made under this section, the ship in respect of which the application is to be made will have departed from India or the territorial waters of India, any proper officer may detain the ship for such time as to allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceedings in relation to any such damage aforesaid, the person giving security shall be made a defendant and shall for the purpose of such proceeding be deemed to be the owner of the ship that has occasioned the damage.

444. (1) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer of the Indian Navy or any port officer, pilot, harbour master, conservator of port or customs collector may detain the ship. Power to enforce detention of ship.

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention proceeds to sea before she is released by competent authority, the master of the ship shall be guilty of an offence under this sub-section.

(3) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty any person authorised under this Act to detain or survey the ship, the owner, master or agent of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea and shall also be guilty of an offence under this sub-section.

(4) When any owner, or master or agent is convicted of an offence under sub-section (3), the convicting magistrate may inquire into and determine the amount payable on account of expenses by such owner, master or agent under that sub-section and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

445. (1) When an order under this Act for the payment of any wages or other sums of money is made by a court, magistrate or other officer or authority, and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the movable property of the person directed to pay the same under a warrant to be issued for that purpose by a magistrate. Levy of wages etc., by distress of movable property of ship.

(2) Where any court, magistrate or other officer or authority has power under this Act to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master, owner or agent of a ship and the same is not paid at the time or in the manner 5 directed by the order, the court, magistrate, officer or authority may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship and her equipment. 10

Notice to
be given to
consular
representa-
tive of pro-
ceedings
taken in
respect of
foreign ship.

446. If any ship other than an Indian ship is detained under this Act, or if any proceedings are taken under this Act against the master, owner or agent of any such ship, notice shall forthwith be served on the consular officer of the country in which the ship is registered, at or nearest to the port where the ship is for the 15 time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

Application
of fines.

447. A magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by 20 the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

Service of
documents.]

448. Where for the purposes of this Act, any document is to be served on any person, that document may be served—

(a) in any case by delivering a copy thereof personally to 25 the person to be served, or by leaving the same at his last place of abode, or by post; and

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the person being 30 or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship where there is no master and the ship is in India, on the owner of the ship, or, if such owner is not in India, on some agent of the owner residing in India, or, where no such agent is known or can 35 be found, by affixing a copy thereof to the mast of the ship.

PART XVII

MISCELLANEOUS

Power to
appoint ex-
aminers and
to make rules

449. The Central Government may appoint persons for the purpose of examining the qualifications of persons desirous of practising 40

the profession of a ship surveyor at any port in India and may make rules— as to qualifications of ship surveyors.

- (a) for the conduct of such examinations and the qualifications to be required;
- 5 (b) for the grant of certificates to qualified persons;
- (c) for the fees to be paid for such examinations and certificates;
- (d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates; and
- 10 (e) for the cancellation and suspension of such certificates.

450. No person shall in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 449 exercise such profession in such port unless he holds a certificate granted under that section: No person to practise as ship surveyor unless qualified

15 Provided that nothing herein contained shall prevent any person employed exclusively by Lloyd's Register of Shipping or Bureau Veritas or any other classification society specified by the Central Government in the Official Gazette in this behalf from discharging any of the duties of such employment or apply to any person specially
20 exempted by the Central Government from the operation of this section.

451. Any person holding a certificate granted under section 449 and exercising the profession of a ship surveyor at any port in India may in the execution of his duties go on board a ship and
25 inspect the same and every part thereof and the machinery, equipment and cargo and may require the unloading or removal of any cargo, ballast or tackle. Power of ship surveyor to inspect ship.

452 (1) If any person dies on board a foreign-going Indian ship, the proper officer at the port where the crew of the ship is discharged, or the proper officer at any earlier port of call in India, shall, on the arrival of the ship at that port, inquire into the cause of death, and shall make in the official log book an endorsement to the effect, either that the statement of the cause of death in the book is in his opinion true, or the contrary according, to the result
30 of the inquiry. Inquiry in case of death on board Indian ship.

(2) If, in the course of any such inquiry, it appears to the proper officer that a death has been caused on board the ship by violence or other improper means, he shall either report the matter to the

Director-General or, if the emergency of the case so requires, shall take immediate steps for bringing the offender to trial.

Certain persons deemed to be public servants.

453. The following persons shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 45 of 1860. namely:— 5

(a) every surveyor;

(b) every judge, assessor or other person acting under Part XII;

(c) every person appointed under this Act to report information as to shipping casualties; 10

(d) every person authorised under this Act to make any investigation or inquiry under Part X and all persons whom he calls to his aid;

(e) every person directed to make an investigation into an explosion or fire on a ship under section 388; 15

(f) every other officer or person appointed under this Act to perform any functions thereunder.

Powers of persons authorised to investigate, etc.

454. (1) Every judge, assessor, officer or other person who is empowered by this Act to make an investigation or inquiry or to board, survey, inspect or detain a ship— 20

(a) may go on board any ship and inspect the same or any part thereof, or any of the machinery, equipment or articles on board thereof, or any certificates of the master or other officer to which the provisions of this Act or any of the rules or regulations thereunder apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to the ship or for any other reason it is considered necessary so to do, may require the ship to be taken into dock for the purpose of inspection or survey; 25

(b) may enter and inspect any premises, the entry and inspection of which appears to be requisite for the purpose aforesaid; 30

(c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine them for the purpose aforesaid, and may require answers or returns to any enquiries he thinks fit to make; 35

(d) may require and enforce the production of all relevant books, papers, or documents;

5 (e) may administer oaths or may in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination; and

(f) may muster the crew of any such ship.

(2) No person shall hinder or obstruct any officer or person referred to in sub-section (1) from going on board any ship or otherwise
10 impede him in the execution of his duties or the exercise of his powers under this Act.

Explanation.—In this section, “ship” includes a sailing vessel.

455. (1) This Act shall not, except where specially provided, apply to ships belonging to any foreign prince or State and employed otherwise than for profit in the public service of the foreign prince or State.
15

Exemption of public ships, foreign and Indian.

(2) The Central Government may, by notification in the Official Gazette, direct that the provisions of this Act or any of them shall not apply to ships belonging to the Government or to any class of
20 such ships.

456. (1) Notwithstanding anything contained in this Act, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any ship or sailing vessel or any master, tindal or seaman from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement in the case of any ship or sailing vessel or any master, tindal or seaman, if it is satisfied that that requirement has been substantially complied with or that compliance with the requirement is or ought to be
25 30 dispensed with in the circumstances of the case.

Power to exempt.

(2) Where an exemption is granted under sub-section (1) subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this sub-section.

35 457. Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of this Act.

General power to make rules.

458. (1) All rules and regulations made under this Act shall be published in the Official Gazette.

Provisions with respect to rules and regulations.

(2) In making a rule or regulation under this Act, the Central Government may direct that a breach thereof shall be punishable—

(a) in the case of a rule made under section 331, with imprisonment which may extend to one year, or with fine which may extend to three thousand rupees, or with both; 5

(b) in the case of any other rule or regulation made under any other provision of this Act, with fine which may extend to one thousand rupees;

and in either case if the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during 10 which the breach continues.

(3) All rules and regulations made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are 15 laid or the session immediately following.

Power to constitute committees to advise on rules, regulations and scales of fees.

459. (1) The Central Government may, if it thinks fit, constitute one or more committees consisting of such number of persons as it may appoint thereto representing the interests principally affected or having special knowledge of the subject-matter, for the purpose of 20 advising it when considering the making or alteration of any rules, regulations or scales of fees under this Act or for any other purpose connected with this Act.

(2) There shall be paid to the members of any such committee such travelling and other allowances as the Central Government may 25 fix.

(3) Committees may be constituted under this section to advise the Central Government either generally as regards any rules, regulations or scales of fees or as regards any class or classes of rules, regulations or scales of fees in particular or for any other purpose 30 connected with this Act.

Protection of persons acting under Act.

460. No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

PART XVIII

35

REPEALS AND SAVINGS

Repeals and savings.

461. (1) The enactments specified in Part I of the Schedule are hereby repealed to the extent specified in the fourth column thereof.

(2) The enactments specified in Part II of the Schedule, in so far as they extend to and operate as part of the law of India, are hereby 40 repealed.

(3) Notwithstanding the repeal of any enactment by sub-section (1) or sub-section (2),—

5 (a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under any enactment hereby repealed shall, until revoked, have effect as if it had been issued, made or granted under the corresponding provision of this Act;

10 (b) any officer appointed and any body elected or constituted under any enactment hereby repealed shall continue and shall be deemed to have been appointed, elected or constituted, as the case may be, under this Act;

(c) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the corresponding provision of this Act;

15 (d) any fine levied under any enactment hereby repealed may be recovered as if it had been levied under this Act;

(e) any offence committed under any enactment hereby repealed may be prosecuted and punished as if it had been committed under this Act;

20 (f) * * * sailing vessels registered under any enactment hereby repealed shall be deemed to have been registered under this Act;

25 (g) mortgages of ships recorded in any register book maintained at any port in India under any enactment hereby repealed shall be deemed to have been recorded in the register book under the corresponding provision of this Act;

30 (h) any licence, certificate of competency or service, certificate of survey, A or B certificate, safety certificate, qualified safety certificate, radio telegraphy certificate, radio telephony certificate, safety equipment certificate, exemption certificate, international or Indian load line certificate or any other certificate or document issued, made or granted under any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been issued, made or granted under this Act and shall, unless cancelled under this Act, continue in force
35 until the date shown in the certificate or document, as the case may be.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.

THE SCHEDULE

ENACTMENTS REPEALED

PART I

[See section 461 (1)]

Year	No.	Short title	Extent of repeal	
1838	19	The Coasting Vessels Act, 1838.	In so far as it applies to ships or sailing vessels fitted with mechanical means of propulsion.	5
1841	10	The Indian Registration of Ships Act, 1841.	The whole.	10
1850	11	The Indian Registration of Ships Act (1841) Amendment Act, 1850.	The whole.	
1923	21	The Indian Merchant Shipping Act, 1923.	The whole.	
<u>1946</u>	<u>21</u>	<u>The Merchant Seamen (Litigation) Act, 1946.</u>	<u>The whole.</u>	15
1947	26	The Control of Shipping Act, 1947.	The whole.	
1949	18	The Merchant Shipping Laws (Extension to Acceding States and Amendment) Act, 1949.	The whole.	20

PART II

[See section 461 (2)]

Year	Short title
1823	Lascars Act (4 Geo. 4, c. 80).
5 1894	Merchant Shipping Act (57 & 58 Vict., c. 60).
1897	Merchant Shipping Act (60 & 61 Vict., c. 59).
1898	Merchant Shipping (Liability of Shipowners) Act (61 & 62 Vict., c. 14).
1898	Merchant Shipping (Mercantile Marine Fund) Act (61 & 62 Vict., c. 44).
10 1900	Merchant Shipping (Liability of Shipowners and others) Act (63 & 64 Vict., c. 32).
1906	Merchant Shipping Act (6 Edw. 7, c. 48).
1907	Merchant Shipping Act (7 Edw. 7, c. 52).
1911	Merchant Shipping (Seamen's Allotment) Act (1 & 2 Geo. 5, c. 8).
1911	Merchant Shipping Act (1 & 2 Geo. 5, c. 42).
15 1911	Maritime Conventions Act (1 & 2 Geo. 5, c. 57).
1914	Merchant Shipping (Certificates) Act (4 & 5 Geo. 5, c. 42).
1916	Merchant Shipping (Salvage) Act (6 & 7 Geo. 5, c. 41).
1919	Merchant Shipping (Wireless Telegraphy) Act (9 & 10 Geo. 5, c. 38).
1921	Merchant Shipping Act (11 & 12 Geo. 5, c. 28).
20 1923	Merchant Shipping Acts (Amendment) Act (13 & 14 Geo. 5, c. 40).
1925	Merchant Shipping (Equivalent Provisions) Act (15 & 16 Geo. 5, c. 37).
1932	Merchant Shipping (Safety and Load Line Conventions) Act (22 & 23 Geo. 5 c. 9).
25 1936	Merchant Shipping (Carriage of Munitions to Spain) Act (1 Edw. 8 & 1 Geo. 6, c. 1).
1937	Merchant Shipping (Spanish Frontiers Observation) Act (1 Edw. 8 & 1 Geo. 6, c. 19).
1937	Merchant Shipping Act (1 Edw. 8 & 1 Geo. 6, c. 23).
1937	Merchant Shipping (Superannuation Contributions) Act (1 Geo. 6, c. 4).
30 1940	Merchant Shipping (Salvage) Act (3 & 4 Geo. 6, c. 43).

M. N. KAUL,
Secretary.

